Supreme Court, U.S.
FILED

No. 06-382 JUL 28 2006

OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

October Term, 2006

RUTH D. BUNDY;
RALPH CHARLES WHITLEY, SR.,
Petitioners,

vs.

JAMES H. BOARD; RANDALL ODO REDER; JOHN WILKINS DAY; JUDGE HERBERT JOHN BAUMANN, JR., In His Official Capacity; SUPREME COURT OF FLORIDA; DISTRICT COURT OF APPEAL SECOND DISTRICT OF FLORIDA; BRUCE WELCH, M.D.; COLGI, INC., A Florida Corporation for Profit; STEVE MARTIN,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT.

CORRECTED PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Question One:

Whether Florida State or Federal Justices, Magistrates, Judges, BAR members, are required to honor the solemn 'Oath' taken for membership in the Florida Bar, Supreme Court of Florida Admission, Admission to the Federal Courts including Supreme Court of the United States?

Question Two:

Whether the State and Federal Rules, Laws/Statutes/Codes/Titles/Canons/Oaths apply equally to Florida State or Federal Justices, Magistrates, Judges, BAR members, Witnesses or Clients of BAR member for civil/criminal Law Violations?

Question Three:

Whether Federal Courts have a duty and obligation under existing LAW/Canons, Rules of Court, Codes of Judicial Conduct, Titles of the United States Code, to exercise supervisory power on 'appeal Petitions' to correct obvious violations of known duties and obligations of members of the lower Judiciary and Florida BAR preventing miscarriage of justice in this Nation/State?

Question Four:

Whether 'BY LAW written and approved by Congress or Legislative Branch in a State signed and approved by the President or Governor as Executive Branch' immunity extends to any State or Federal Judge/BAR member from Florida for any 'deliberate'

violation of law, felony fraud or conspiracy, intentional violation of due process of law, deliberate disregard of material facts, judicial acts without jurisdiction, aiding or abetting perjury thus blocking of a lawful conclusion of a case, or any deliberate violation of the Constitutions and Laws of Florida or the United States, notwithstanding Common Law, or any other contrary statute?

Question Five:

Whether this Court, legal assistants, law school teachers, BAR members within this Nation and Worldwide know or knew specific State and Federal Florida court judges/BAR members have routinely violated the Laws, Rules and solemn "Oaths" taken and hide such felony acts and actions under false 'absolute judicial immunity' or 'immunity' detrimental to the RULE OF LAW in America by not stopping such known practices at all levels?

Question Six:

Whether this Highest Court of the United States will, through Rule/duty/obligation, receive this case from private citizen non attorneys and finally address the known problems/miscarriage of justice and acts of fellow BAR members in lower Florida State or Federal Courts as such a case has never been brought 'sua sponte' or otherwise before this Court or Congress?

Question Seven:

Whether Federal/State Judges and BAR members have a duty or obligation to FOLLOW and Honor Titles of the United States Code and especially Title 18 U.S. Code § 4 as "Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both." which is mandatory?

Question Eight:

Whether it is the duty of a Federal/State Judge as committing magistrates to immediately call for full investigation of any felony act reported as done concerning any case in or out of court involving Judges, BAR members, Witnesses and Experts proven to have violated Federal/State Laws involving Perjury/Fraud upon the Court even through testimony or with filings and thus a duty or obligation demands immediate Arrest or demands the Court Ordering Law Enforcement or Executive Branch Officials to investigate and Arrest or Convict those found to have violated State or Federal Laws?

Question Nine:

Whether any Appeal Court can secretly ignore the undeniable fact that a lower tribunal Florida judges failed to take and sign a written Oath of Office for duty as a judge, failed to obtain a surety Bond required by the Constitution and thus lost jurisdiction by such act plus the fact that the wife of the trial imposter jurist was a material witness in case and jurist failed to recuse himself after stating in open court the jurist would have to recuse on a case if spouse name used which continued Violating Canon 3(e) resulting in miscarriage of justice proven by filings and transcripts?

Question Ten:

Whether a Federal Court, once being shown clearly a Florida Supreme Court by quorum of justices never made any decision on a case appealed, has a duty and obligation to ALLOW OR ORDER A NEW TRIAL for any Citizen in Federal Court PLUS report those felony suspects to proper Authorities Federal/State to insure investigation and arrest for felony conduct?

Question Eleven:

Whether or not any Florida Judges or BAR can ignore Florida Rules For Certification And Regulation of Court Reporters Florida Rules of Court, State Rule 13.010-13.190 [2002, 2003]; Fla. R. Jud. Admin Rule 2.070(a)-(h) entirely or other Rules of Court/State Statutes since there are and remain to this very day no Certification Board or any entity for qualifying annually any Court Reporter denying Petitioners and others of a verbatim record

of the spoken word and not allowing non attorney's like Petitioners to challenge incomplete or bad transcripts which result in bad transcripts which are placed in the true Record of Court Proceedings by obvious stubbornness of Florida Judges and BAR members to recognize fatal flaws in transcripts proven by personal TAPE RECORDINGS of Petitioners which alone should trigger a NEW TRIAL?

LIST OF ALL PARTIES TO THE PROCEEDINGS BELOW

CORPORATE DISCLOSURE STATEMENT

Neither Petitioner Ruth D. Bundy, nor Petitioner Ralph Charles Whitley, Sr. participated in any corporate organizations. [See Rule 29.6]

PARTIES

A. Petitioner Ruth D. Bundy, In Proper Person.

B. Petitioner Ralph Charles Whitley, Sr., In Proper Person.

C. Respondent JAMES H. BOARD, deceased.

D. Respondent Randall Odo Reder

E. Respondent John Wilkins Day

F. Respondent Herbert John Baumann, Jr.

G. Respondent Supreme Court of Florida
[Members of the Supreme Court of Florida
Justice Henry Lee Anstead
Justice Kenneth B. Bell
Justice Raoul G. Cantero, III
Clerk Thomas D. Hall
Justice R. Fred Lewis
Chief Justice Barbara J. Pariente
Justice Peggy A. Quince
Justice Charles T. Wells]

H. Respondent Second District Court of Appeal
[MEMBERS OF THE SECOND DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA INCLUDE:
Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley]

I. Respondent Bruce Welch, M.D.

J. Respondent COLGI, Inc.

K. Respondent Steve Martin

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CORRECTED PETITION FOR WRIT OF CERTIORARI

1. It has clearly been some 230 years since the formation of the United States and immediately after the Constitution and Bill Of Rights plus Amendments were provided by the founding fathers, Congress was formed to make Laws supporting conduct of people and commanding Executive, Judicial, Legislative responsibilities all mandating specific conduct and thus formed guidelines for Judges Federal and State with Laws both Federal and State providing specific guidelines with no 'immunity' yet a 'dirty little secret' would be kept in 2002-2006 by BAR members and Jurists alike to protect Florida Judicial Branch and BAR members from investigation, arrest and conviction for felony conduct known and kept hidden from Federal and State Legislative and Executive Branches of Government all detrimental to the Public or Visitor in America.

   A. Several great lawyers known to both Petitioners argued before this Court and not once has this secret been challenged for reasons unclear, one founder of Steptoe and Johnson out of Washington/W.Va. Attorney Louis A. Johnson, former Secretary of Defense under Truman comes to mind as well as a New York Attorney Hayden C. Covington but neither would know of Florida BAR violations of Oaths or Acts aiding felonies involving Florida BAR members/Judges in 2002.

B. Lawyer and former Secretary of Defense Louis A. Johnson indicated on many occasions that a case must travel up to the Supreme Court of the United States to correct a travesty of justice if lower courts and BAR members would not allow the matter to be heard properly in any other Court.

C. Petitioners have attempted to find suitable Florida based BAR lawyers to take this case to present same to the Highest Supreme Court of the United States and herein state for the record GRANTING openly anyone permission to file an Amicus Brief in support or against this Corrected Petition.

D. Petitioners have called for Florida Judges and chosen Court Reporter Firms to be checked pursuant to Florida Rules of Court after finding serious flaws in transcriptions paid for and proof has been given to local Chief Judge Menendez only to be ignored as tape recordings were 'unauthorized' and thousands of transcripts are in question because no one certifies Court Reporters.

2. Sadly, Lawyers and Judges perhaps within the walls of the Supreme Court of the United States Building share knowledge of a 'Florida dirty little secret' which has been hidden effectively for many years and now the 'Truth is coming out' and it is up to the Supreme Court of the United States and/or Congress of the United States to finally verify, correct and clarify the actual position on items such as "Absolute Judicial Immunity" "immunity" involving "Perjury" now and let one case come forward to correct such 'errors' granting overdue relief protecting everyone from the Florida Jurists and Florida BAR itself.

3. Petitioners are witnesses, complainants, victims of acts and actions, misfeasance and malfeasance plus direct felony acts openly done under a false protection by jurists and fellow Florida BAR members where Judges and Lawyers have hidden behind the 'absolute judicial immunity' or 'immunity' claims when committing, aiding and abetting or furthering felony acts including perjury and fraud upon Court and conduct which is known and documented clearly in this case from Case 98-8569 Division I, Thirteenth Judicial Circuit to present Cases in Federal Court like 05-15938-A or 8:04-cv-1439-T-23TBM.

4. A Federal U.S. District Court for the Middle District of Florida was given a filing, perhaps lengthy, [Case 8:04-cv-1439-T-23TBM] [App. Q at 107a-179a] but certainly on point concerning felony conduct and acting under color of law or authority with ALL parties being 'state actors' and such was dismissed 'WITH PREJUDICE' as the Federal Judge Merryday clearly violated the Oath and duty to the public and Judiciary hiding felony conduct thus the Federal Judge Orders were appealed to the higher Federal Court or the 11TH USCA in Atlanta in a timely manner citing acts or non actions of BAR members including Judiciary against the Rule of Law, Laws, Constitutions of the Federal and State Government with use of perjury tainting a jury.

5. The Case originally filed by the Petitioners was filed timely in 1993, [Case 93-11695 CC] a fee paid for a Jury Trial and several private parties and one Corporation were sued yet the Clerk assigned the people

to the wrong court which was County Court where alleged imposter State Court Judges, without Oath of Office or Surety Bond properly available or filed, took great pleasure keeping the Case out of Jury Trial. Such action delayed any hope of the Petitioners to obtain relief under the Constitutions for the State of Florida and United States plus all Rules of Court and Laws for each for over FIVE (5) YEARS languishing in County Court when the Judges and the Lawyers representing clients as fellow BAR members knew the case should have been in State Circuit Court and failed to follow the Rules Regulating the Florida BAR by not being honest and candid with the alleged judges or unrepresented litigants.

6. Petitioners went to meetings and hearings on many matters, filed documents and had 'sworn testimony under oath transcribed taken in the form of depositions plus received sworn filings in the official record notarized by the same attorneys for their Clients from 1993 [Case 93-11695 CC then into Case 97-10683 CC] until filed again under Circuit Court [Case 98-8569] and time for Trial was finally granted for 2002. [Eleven Years to get a case through to any hope of a trial before any imposter judge]

7. Petitioners had one former Judge retire [Case 93-11695 CC] after perhaps causing a problem for the Judge, ignored by opposing counsels, pointing out the Flag with '3 Gold Fringed sides' was not the Flag of the United States [Title 4 USC 1] seen flying proud outside the courtroom nor was the flag exhibited for the State the true Flag of Florida and each should have been removed.

8. Petitioners presented this FLAG argument and demanded to know if the presiding Judge was Ordering Petitioners to seat themselves at a small table with the opposing counsels in courtroom through the BAR and Judge Don Castor stated he was 'going to retire now' and further stated "I dismiss your case without prejudice" then Judge Castor did indeed retire but Petitioners had to refile in County Court again paying a fee [Case 97-10682].

9. In perhaps 1997 a slip of the tongue by one Attorney Respondent in this Case representing several Respondents told the Petitioners in front of the new lady alleged County Judge Charlotte Anderson that the Case "...WAS IN THE WRONG COURT FOR OVER 5 YEARS NOW." and such was not ignored.

10. A motion was immediately filed by Petitioners to determine 'Venue' and the replacement imposter Judge Charlotte Anderson bumped the County Case 97-10682 up to Circuit Civil under assigned Case 98-8569 and Petitioners again had to PAY to refile. One secret known to BAR and Jurists which came out by a slip of the tongue as Petitioners were in the 'Wrong Court' and all knew except the non attorneys waiting for a jury trial!

11. At all times Respondent imposter Jurists and BAR members [Case 98-8569] no doubt felt protected by 'absolute judicial immunity' and perjury did not raise it's ugly head until Petitioners finished their case in chief turning over the trial to Respondents who 'knew perjury was acceptable and would not be challenged' feeling total protection with years of immunity allowing perjury which really does not exist as a matter of Law

with approval of Congress yet courts allowing 'Free Pass' to BAR members/jurists and it is known by even this Court and all BAR members to be illegal, against the law and now this Highest Court should acknowledge same and stop it.

12. After some time imposter Judge Gregory P. Holder was assigned and after Petitioners Challenged HOLDER the case was turned over to imposter Judge Greco.

13. A trial was started in Circuit Civil Case 98-8569 but Petitioners quickly pointed out to one State Circuit Court Judge, without Oath or Bond thus declared in Federal Court to be an imposter, that the days provided would NOT allow a full trial and more time was necessary. Circuit Court in Hillsborough County, Florida only allowed a few days for a long trial when Petitioners had asked for at least 'Two Weeks'. Imposter Judge Dick Greco Jr., son of the Tampa Mayor, stopped the initial trial and declared a 'mistrial' stating that he took an Oath as a Jurist and all would be allowed sufficient time to have any trial in his Courtroom allowing Petitioners to start again seeking a full trial.

14. Oddly imposter Judge Dick Greco 'retired' nearly immediately after the pronouncement Case 98-8569 stating he was going to make someone happy and someone sad with this 'Ruling of Mistrial' on this matter.

15. Petitioners were assigned a new imposter Judge in Circuit Court John Herbert Baumann, Jr. and the Case was set for TRIAL in the trial division but still two

weeks was asked by Petitioners and was disallowed for reasons unknown and the Trial Division Judge John Herbert Baumann, Jr., also with no Oath or Bond on file in Florida, walked into the courtroom the day of trial and in the first minutes indicated he had found out his spouse was a material witness in the case. Alleged Judge Baumann, Jr. ignored Canons and Rules of Court and immediately stated that he felt his spouse's involvement was de minimis but if anyone brought up her name he would have to recuse himself immediately then he called in the jury pool to begin a trial amazing Petitioners.

16. Imposter Judge Baumann, Jr. failed to follow the Rules of Court and State Law on Disqualification under Florida Statues Chapter 38 and did not leave the Court room but let the Jury Pool be summoned and commenced a trial without the opposing BAR member stating anything except Respondent Attorney Day guaranteed he would not be calling the Judges Spouse as a witness yet he let the spouse information be given to the jury and judge allowed it without recusal as the imposter judge lost jurisdiction.

17. Respondents Bauman and Day knew the law, knew the Rules and knew the imposter Judge Baumann, Jr. should have stepped down and after hearing that 'If my spouse is mentioned I will have to recuse myself from this case' [Canon 3(e)] two non-attorney litigants presenting the case felt secure the name would not be used or the alleged 'material witness' not be even remotely necessary to any case as Petitioner Bundy knew full well a lady doctor never examined nor treated Petitioner named Baumann so Respondent Welch lied, Respondent Baumann and Respondent Day knew of perjury and did nothing but block Petitioners exposing it. 'A felony known as perjury'

18. The sad part is the imposter Jurist failed to follow the Rules of Court, Constitution, Code of Judicial Conduct and Canons known to Judges and Lawyers who would be judges in Florida plus Federal Courts across this Nation and BAR member knew yet aided and abetted felony acts.

19. Respondent Baumann, Jr., as transcripts verified, stopped Petitioners from IMPEACHING Respondents in Trial 98-8569 in violation of Rules of Evidence State or Federal before jurors who were also not truthful with the Court or Petitioners about knowledge of Petitioners or the Case as Motions To Interview or Hearings disallowed.

20. Respondent Baumann, Jr. allowed Respondent Day representing Clients/Expert Witness who are also Respondents shown in case 98-8569 and this case, to commit open verifiable perjury, concealed same and aided and abetted perjury including acts and actions not allowing Petitioners to introduce court records during a trial to impeach perjury in the Courtroom when the defense testified or during closing arguments and afterward to this very day when notified with proof positive filings of perjury this imposter Judge aided and abetted the PERJURY and hid his own violations of the Canons and Rules of Court hoping Petitioners would just roll over and play dead like good non attorneys.

21. Multiple Motions for Disqualification were filed and heard by imposter Judge Baumann, Jr. who was provided with undeniable proof of perjury, tainting jury and case plus fraud upon court even by the Judge filing a Verdict returned against one single Respondent and made applicable to all respondents who never received a Jury Verdict in their name as Petitioners were waiting patiently to have the same Verdict treatment given the Jury on all Case Defendants and it did not happen.

22. Multiple verified sworn documents pointed clearly to perjury and fraud upon the court yet imposter Judge Baumann, Jr. did nothing nor would he follow the Rules of Court which mandated hearings on motions to Interview Jurors when it was obvious the Jury was tainted and two Jurors lied under Oath about knowing Petitioners and the Case or Respondents thus the trial was tainted by perjury and interference from within and the transcript received was a joke and not verbatim.

23. An appeal was taken immediately to the mandatory Appeal Court which turned out to be the Second District Court of Appeal in Lakeland, Florida Case 2D 02-05449 where more imposter Jurists without Oath or Bond ignored proof of felony conduct by all involved even reported to the Hillsborough County Sheriffs Office where a Case Number HCSO 02-140946 was provided.

24. The Governor of the State of Florida allowed the Florida Department of Law Enforcement to start a Case Number EI-73-5183-38/8 and TN-48-479 Tampa but no action was taken because the Investigators were informed all judges enjoy absolute judicial immunity plus all BAR members/Clients/Witnesses enjoy same immunity citing Federal and State Case Law which conflicts with Laws.

25. The Second District Court of Appeal under Case 2D 02-05449 issued a 'Per Curiam Affirmed Decision without written opinion' and Petitioners, non attorneys, victims, witnesses, complainants, filed with the Supreme Court of Florida a Brief On Jurisdiction following the PCA from 2ND DCA in Florida then were told by a Clerk to file a full Petition for Writ of Mandamus appeal which was done and Case assigned was SC04-480 one day and denied the same day by the Clerk alone which was impossible if a quorum of justices were to decide any case this large.

26. Immediately after receipt of the Appeal from Petitioners directed to the District Court of Appeal Second District of Florida the clerk 'only' in the supreme court of Florida took the money for filing fee, gave the case a case number SC04-480 then under color of law or authority unconstitutionally denied the entire case and denied right for rehearing without one single justice let alone a quorum mandated by Article V Section 3(a) Florida Constitution reviewing one single document page or reaching a decision depriving Petitioner of known rights under Constitutions and Laws of the United States and Florida all under an Internal Operating Procedure 2002.

27. Such unconstitutional and hidden action by a clerk, known and condoned by Florida Supreme Court Justices is a direct Violation of the Constitution of the State of Florida and Constitution of the United States depriving Petitioners plus thousands of litigants of the State and Federal Constitutional rights and under the Laws and

Rules of Court or Canons of Judicial Conduct denied Petitioner a 'proper court' hearing in Florida. [See Jenkins V. State, supra, and all Federal Cases and State Cases provided in App. S at 197a-219a fully incorporated herein.

28. It is further verified that the Clerk did this action under color of law or authority violating the State of Florida Constitution and United States Constitution and Laws based upon a 1980-2002 'Internal Operating Procedure' or 'IOP' intake provision giving full power of the Supreme Court only to the clerks violating all known rights of petitioners under laws of Florida and United States causing damage to over 30,000 [Thirty Thousand] litigants, even ones represented by Florida BAR members who could not blow the whistle/risk disbarment or having a right to practice law in a court for another pulled.

29. Petitioners drafted a Federal Filing and submitted same to the Federal Middle District of Florida where blind rotation resulted in Judge Steven D. Merryday assigned case 8:04-cv-1439-T-23TBM (App. Q at 107a-179a).

30. Petitioners served all parties Respondents at a considerable Cost plus provided copies to each counsel and Respondent including a Corporation registered in Florida. Weeks turned into Months and document after document were filed then the Federal Judge filed an Order Document 26 then Order Document 90 and finally Order Document 94 [See App. B at 3a-6a,C at 7a-9a, E at 11a] which were appealed to the 11TH USCA under Case 05-15938-AA where it was not known which jurists would be assigned but a Motion for Judicial

Notice would reveal concerns of Petitioners that Florida imposter judges could have been assigned which was not desired in any way shape or form.

31. Docket Sheets for Federal Cases will be Exhibits made available for any Joint Brief authorized.

32. Petitioners were shocked that two Florida panel members were assigned the case involving Judges Tjoflat and Black who were not to sit on the case and suddenly the entire case was thrown out by these same Judge as 'FRIVOLOUS' without citing any law or without a motion from Respondents thus hiding obvious fraud upon the court, felony perjury and hiding the unconstitutional acts and actions of lower court jurists and BAR members who were officers of the court claiming absolute judicial immunity which does not exist under the Rule Of Law and no judge had ever reported the felony acts to proper authorities and thus the 'dirty little secret' continues.

33. Petitioners responded with a filing challenging the 11th USCA panel filed a motion or request for judicial notice (App. I, J, K at 27a-64a, N, O, P at 77a-106a) which were denied when in fact should have been allowed or answered by Respondents as the panel did not cite any rime or reason for declaring the entire filings 'Frivolous' and the Clerk alone removed the filing sending same back with all copies and a letter indicating 'case closed' preventing Petitioners from filing anything seeking relief for any reason and under 'confidential letter' sought to make it look like the action was Ordered by an 11TH USCA Judge, filing was removed but will be included herein (App. L at 65a-72a) as such seems a

violation and unconstitutional under Florida and Federal Laws/Rules of Courts as a Motion or Notice is to be heard by the Federal Judges on the panel, not decided by Clerk.

34. The Florida Department of Law Enforcement investigation Case Files FDLE File EI-73-5183-38/8 and TN-48-479 of felony acts and conduct was believed stopped illegally under color of law or authority well known to this court and BAR members by an Attorney or BAR member who indicated no doubt to Governor John Ellis Bush and Florida Department of Law Enforcement as legal advisers then perhaps even Sheriff David Gee and Detective Derrick Grace that no investigation of felony conduct can be conducted by Sheriff of Hillsborough County, Florida or HCSO told 'All judges, lawyers, clients, witnesses are absolutely immune for any perjury, fraud upon the court and conspiracies aiding and abetting felony conduct in America during a trial.'

35. Unfortunately Petitioners reviewed references to Cases such as Fridovich V. Fridovich, 598 So.2d 65 (Fla 1992) App. R and a famous case cited as Stump V. Sparkman, 435 U.S. 349 (1978) which is contrary to Laws/Constitutions and merely appears as a 'BAR member' 'immunity' type action which must be reviewed by this Highest Court of the United States in light of the lower court judges and BAR members openly committing felony perjury plus felony crimes under Laws/Constitutions State and Federal as if they are protected, even when they do not do something mandatory and ministerial under Laws, Constitutions, Canons, Rules.

36. Petitioners respectfully submit this Honorable Supreme Court know very well what is and has been done by lower tribunal alleged Florida jurists and BAR members and it is time in America that this matter is not only resolved but ORDERS are in Order to cause arrest and conviction of anyone who commits a felony in Florida involving a Trial or Filing and thus The Sheriff David Gee of Hillsborough County, Florida, Detective Derrick Grace of the HCSO and Federal Bureau of Investigation plus Florida Department of Law Enforcement Sworn Officers of the Executive Branch must conduct the full immediate investigation and arrest suspects immediately or they too aid and abet criminal acts amounting to a felony under Florida and Federal Laws referenced herein.

37. It is believed that the Honorable Sheriff David Gee Sheriff of Hillsborough County Florida and Deputy Derrick Grace under Case File HCSO 02-140946 were stopped by Florida BAR members who indicated all judges/BAR are absolutely immune along with clients or witnesses for felony acts and conspiracy deemed a felony [Fla. Stat. Chapters 777, 837 apply].

38. Petitioners have documented 'prima facie proof positive evidence' to the FBI, President of the United States and Governor of Florida as well as HCSO local offices and FDLE of the commission of multiple felonies by BAR members, Judges, Respondents and all were stopped by the claimed 'absolute judicial immunity' extended to all respondents which is unconstitutional and against Laws.

39. Petitioners seek this Supreme Court review and if necessary will Petition Congress to allow non attorneys to have this and other matters fully investigated with proof in all filings indicated in lower tribunals confirming same as all Florida BAR members are fully aware the Constitution and Laws of this Nation and Florida do not grant 'immunity' for felony acts or for ministerial acts not done when one has a duty and obligation under existing Law thus it is time this Court addresses the problem as 'Equal Justice Under Law' is not being followed even if two elderly senior citizens bring same without being able to afford the lawyers who would be reluctant to assist in this matter as no lawyer is licensed in Florida and Florida BAR/judiciary control hiding felony conduct yet granting permission to practice to BAR members after payment of a BAR membership fee then aiding and abetting felonies by blocking investigations.

40. In Florida any Judge/BAR member at all levels can commit felonies, violating law and constitution, violate Oath taken with appearance of and no Criminal charges or investigations are allowed to proceed if they are brought for even felony or misdemeanor obvious reported criminal conduct under 'immunity' yet a Judicial Qualifications Commission made up of Florida BAR or BAR committee primarily may start an investigation and the public feel that action is going to be taken yet if the alleged Judge or Justice involves retires suddenly or resigns suddenly the 'JQC' action stops in it's tracks and the people actually never see justice for anything done by these people or their clients for civil or criminal acts amounting to a felony nor for civil acts as suits are blocked.

A. Surely such cannot be hidden, allowed, condoned or sanctioned in Florida or any other state of the United States of America or we are truly not with "Equal Justice Under Law"

B. It is the solemn duty and obligation under Oath taken pursuant to our existing Laws as written for the this Court pursuant to Laws and Rules under supervisory powers to take this Case and allow briefs, or Amicus Briefs from others knowing full well Petitioners would automatically grant full permission, as provided herein, for anyone or any group to file an Amicus in this case.

41. Petitioners seek granting of this Corrected Petition as well as seek Orders providing notification of the appropriate investigative arms of Executive Branch of Government Federal and State to insure all felony practices are investigated, suspects arrested and convictions sought.

A. Petitioners seek herein an ORDER allowing access to a full trial in Federal Court 'ab initio' or now as then because Petitioners have never appeared before a proper Court and Jury Trial was demanded.

CONCISE STATEMENT OF THE BASIS FOR JURISDICTION AND OPINIONS BELOW

42. Petitioners reincorporate ¶¶ 1-41 made part of this filing and referenced herein indicating clearly Supreme Court of the United States Rules 10(a), 10(b), 10(c), 12-4 call for an exercise of this Court's supervisory power PLUS Title 28 U.S.C. §§ 1251-54, 1257, 1291-92, 1295, 1331, 1343-44, 1346, 1352, 1361, 1366, 1367, 2101; Title 18 U.S.C. §§ 2,3,4, 241, 242, 1621, 2382 and Title 42 U.S.C. §§ 1981-1988, 1994; Article VI, Clause 3, XII Amend., Section 1, XIII Amend. Sections 1,2,3,4; XIV Amend. along with all Corrected Exhibits attached ask this Court to consider one or more of the above references as granting Jurisdiction as the Court is fully aware of the problems plus correction overdue in this matter. All OPINIONS of the Federal and State Courts are included in Appendices A-E at 1a-11a included herein by reference.

43. Petitioners sited to this Court the Constitution and Laws of this United States and State of Florida which command with Rules/Canons/Code of Judicial Conduct specific protections needed for review to ensure that all who would be known as Florida Judges and BAR members or Witnesses that Perjury, Fraud Upon The Court, and Felony Violations of the Laws both Federal and State will no longer be tolerated or hidden under a claim of 'absolute judicial immunity' or 'absolute immunity' as such is believed contrary to the Laws and Constitution as written by the Legislative Branches of Government applicable to all Courts, Hearings and Proceedings State and Federal brought at all levels.

44. Petitioners site the Titles of the United States Code in Titles 18, 28, 42 fully incorporated herein by reference on previous pages clearly indicate a Federal Jurist named Steven D. Merryday and three Appeal level Jurists at the 11TH USCA have not properly done their job and allowed all who enter the court can become victims along with Petitioners as Victims, Complainants and Witnesses to violations of Felony Laws, Civil Rights Violations and Petitioners have a right to ask for relief and bring a case to be heard by 'Jury Trial' in Federal Court.

45. Petitioners submit that if not this Court allowing this case to be briefed and corrected once and for all by the Court and Congress, WHO will protect the people under the Constitutions and Laws identified herein in ¶¶1-44 or Appendices A through U (at 1a-241a) submitted herewith?

46. Petitioners submit that the Appendix shall contain all Orders retyped from Federal Court/State Courts for booklets submitted and each Appendix A through U (at 1a-241a) show Motions indicating ERROR exists which must not be hidden, condoned or kept concealed by this Court who alone have the duty and obligation to take supervisory roles to stop such violations of the Laws and stop the errors of Florida Courts/BAR members/Clients.

47. Petitioners submit that previous Case Laws stated as rulings from this Court indicated a problem existed for years and the Court did not address what is covered in this Corrected Petition thus it is suggested the time is ripe and protection of the public necessary to prevent further damage to all who live, visit and pass through Florida.

48. Petitioners submit the Orders Docket Numbers 26, 90, 94 App. B at 3a-6a, C at 7a-9a, E at 11a from Judge Merryday were as wrong as the Orders received from the 11TH USCA Federal Panel of Three App. A at 1a-2a, D at 10a and a trial 'ab initio' should be allowed against all of the respondents in a True Court in a Federal Court such as the Middle District of Florida but Judge Merryday should be banned from participating in such jury trial by denying a proper court and right to have the case heard 'now as before' in a Federal Court.

49. Petitioners submit Motions filed immediately after Order 90 resulted in final denial by Order 94 App. E at 11a was then appealed timely under Docket Numbers 91, 92, 93 and 95 and that Judge Merryday was in error by such Orders.

50. Petitioners submit a timely Appeal was taken to the 11TH USCA under Case 05-15938-AA and an Order of the Court dismissing the entire appeal as 'Frivolous' App. A at 1a-2a without reference to any law, findings of fact or conclusions of law which is deemed in error and a timely Motion filed by Petitioners App. J at 39a-50a, K at 51a-64a resulted in a denial then the entire case mysteriously was sealed with no further filing allowed which seems contrary to the Rules and denies Petitioners Equal Access when Federal Rules of Civil Procedure like 60(b)(6) indicate it is the duty of a litigant to bring specific items to the attention of the Court when Fraud Upon The Court is involved or Perjury. A timely challenge to the Panel App. L at 65a-72a was removed after being stamped in and sent back for reasons quite unclear depriving Petitioners of the right to have any document filed or review done by the 11TH USCA court.

CONSTITUTIONAL PROVISIONS, TREATIES, STATUTES, LAWS, REGULATIONS INVOLVED IN THE CASE

51. The Constitutions and Laws of the United States/State of Florida State of Florida, plus Rules of Court both Federal and State and Canons or Code of Judicial Conduct clearly known already and mentioned in ¶¶ 1-50 reincorporated herein.

52. Petitioners submit this Highest Court is fully aware of the Constitution/Laws, Codes, Rules of Court, Codes of Judicial Conduct indicated as being violated by Florida BAR members who are imposter Judges/BAR members who have clearly attempted to stop this case from ever getting heard with Oral Arguments or review by the Federal Courts unless this Petition is granted under supervisory powers as such is detrimental to every living and breathing human who lives or visits Florida today.

STATEMENT OF THE CASE

53. Petitioners submit that the Statement of the Case is contained in pages 1-20 of this document above consisting of paragraphs 1-52 above fully referenced herein with the facts also stated which should grant allowance of the Writ without question based upon the Facts sworn to herein under Penalty of Perjury pursuant to Title 28 Section 1746 United States Code and backed up with Appendices A thru U at 1a-241a attached in the Appendix.

ARGUMENT AMPLIFYING THE REASONS RELIED UPON FOR ALLOWANCE OF THE WRIT

54. Petitioners have not had the pleasure of having a Trial nor Hearings before proper Florida State Judges or State Court based upon findings and proving such jurists were imposters and the Federal Court including this Highest Court is the only Court who can now hear the case, rule on all Motions and grant a new Jury Trial 'Now as Then' or ' ab initio' in a Federal Court plus make Orders protecting the rights of all litigants in Florida.

55. Petitioners have tried to obtain necessary relief proper and just unsuccessfully in a Supreme Court of Florida as indicated then tried to obtain relief and a new jury trial in a Federal Middle District Court only to have a Middle District Judge deny every filing citing authority involving 'absolute judicial immunity' App. B at 3a-6a, C at 7a-9a, E at 11a, M at 73a-76a which does not exists nor apply plus 'must have a racial animus' which also is false for mixed race litigants under the Constitutions/Laws of the United States/Florida and those LAWS are made by Congress/Legislatures under separation of Powers.

56. Petitioners can only PRAY to this Court to allow the Corrected Petition be GRANTED and the case scheduled for Briefs and Oral Argument by this Highest Court in the United States who is the only court who can stop such abuse in America - and elsewhere under American Control as no one has ever brought a case of this Nature involving an entire Florida Supreme Court who openly violated the Constitution and Laws of the State of Florida under color of law or authority against

the Constitutions/Laws Federal and State and Codes of Judicial Conduct for the BAR of Florida and American Bar Association guidelines or Canons known to all jurists.

57. Petitioners submit perjury and fraud upon the court has reached epidemic proportions and is known by this Court and staff but once reported to a jurist under the Rule of Law must be investigated by the Judicial and Executive Branches and failure of any jurist or BAR member to report a fellow jurist or BAR member for a felony act is aiding and abetting a felony plus conspiring to commit a felony and each become an accessory if not a principal under the Rule of Law or Laws of this Nation and State of Florida. Such is not the 'justice' people seek in Courts of Law in the United States nor can this Highest Court now ignore or bury the problem critical to all.

58. Clearly this Court is the only remaining protection for humans under the Constitution/Laws/Rules as the Florida BAR members of lower tribunals and BAR members who would claim 'absolute judicial immunity' while violating their Oaths and Appointments cannot be condoned or hidden even by this Highest Court now that there are over 30,000 known victims in Florida alone to a practice which violates the State of Florida Constitution and Laws let alone Federal Constitution and Laws stated herein and contained by reference herein unique to Florida, where entire Florida Supreme Court grants full power to a mere clerk for some 9 years by IOP.

59. The Sheriffs, FBI, FDLE, and all law enforcement officers plus Secret Service and Marshal Service know full well the 'Statute of limitations clock is ticking' on the Arrest, Conviction and Incarceration allowed as the Felonies known to have been committed since the 21-24TH day of August 2002 to PRESENT must result in action or known felons go free under American Laws and Titles/Statutes for perjury under oath in a court of law. Nothing stops further investigation, arrest, prosecution and confinement for those Respondents who have been part of a Civil and Criminal Conspiracy to Hide felony acts but a Supreme Court Jurist must Order/Report those suspects immediately for investigation, arrest and prosecution!

60. Petitioners therefore ask or pray this Highest Court to immediately 'Order' a full Federal and State investigation and confirm the Sheriff of Hillsborough County, Florida, Governor and Florida Department of Law Enforcement have been victims of Florida BAR/Jurists lying about 'Immunity' issues thus stopping or interfering with Criminal Investigations State/Federal amounting to 'Obstruction of Justice' as Respondents are known and local for full investigation purposes.

61. Petitioners also ask or pray this Court to not condone 'Perjury or Subornation of Perjury' by Respondents named herein under the same Laws State and Federal. [See Exhibits A through U at 1a-241a incorporated fully herein]

62. Petitioners seek permission to brief this Case to be heard by the full Supreme Court and further submit a request to allow anyone the right to file an Amicus Brief on this matter without question as it is a case where every man, woman and child in Florida need to know what is allowed under the Laws of the United States and Florida.

REASONS WHY CERTIORARI SHOULD BE GRANTED

63. Petitioners have proven time and time again denial of a proper trial before a proper court, perjury, fraud upon the court, violation of Laws/Constitutions state/federal by Florida BAR members and Jurists in State Courts through multiple Sworn documents submitted or filed in various State/Federal Courts which have been ignored by some claiming to have 'immunity' contrary to Law!

64. Petitioners felt confident filing timely in Federal Court would allow the Sheriff, FBI, FDLE to investigate and arrest those who would violate the Felony Laws of the United States and Florida and still are shocked that the Sheriff of Hillsborough County, Florida has not arrested anyone and that the Florida BAR members who represent the Respondents all claim or are supported by judges who claim 'immunity' for criminal acts and deprivation of civil rights of Petitioners which known and proof is supported by a Federal Judge in Tampa and two imposter Florida based Federal Judges Tjoflat and Black in the 11TH USCA who seek to bury this case calling same "Frivolous' without any rime, reason, conclusions of law or facts supporting such a decision other than the court getting perhaps upset with people who lost over $17,000,000.00 possible award of damage verdict plus possible treble damages award verdict in a state court because of a local Judge who violated the Laws, Codes, Rules of Court and all other Appeal Court Jurists seem reluctant to let the two non attorney litigants get the Truth out to the highest Supreme Court of the United States and Congress to stop such known violations of Law/Constitution/Rules of Court/Canons.

CONCLUSION

65. Petitioners, non attorneys, witnesses and victims have insufficient FUNDS to hire the finest legal minds in the World living in America to bring this case before the Court who already know of Florida violations and errors.

66. Petitioners are fully aware of the Cliche "A man or woman who represents themselves has a fool for a client!" but all should be able to demand and receive 'Equal Justice Under Law' as is engraved over the entrance to the Supreme Court of the United States building and thus when perjury or other felony conduct is allowed tipping the entire balance of justice favoring the criminal element including BAR members and private citizens told they can lie, who trash the non attorney and public with the help of an imposter Judge like Respondents who are protected by other Florida Judges and BAR members in positions below this Court who are challenged to prove they have required Oaths of Office on file properly or are properly bonded and adhere to the solemn Oaths taken thus case deserves a proper court and NEW TRIAL.

67. Petitioners submit the 11TH USCA jurists from Florida were advised clearly not to become part of this three judge panel and a request for judicial notice App. I, J, K, L at 27a-72a clearly indicated the fear that Federal Judges from Florida would try to hide the 'dirty little secret' involving the 'State of Florida Supreme Court violations of the Constitution and thus depriving litigants of the rights and protections of the Constitution of the United States and Laws both State and Federal' allowing extra time off by Clerk being given full authority to deny cases and no justices saw it at all.

68. Petitioners feel sure and confident that Respondents must admit error, must admit felony conduct and also must be investigated, arrested and conviction attempted or no man, woman or child in Florida can expect Justice and State of Florida v. Marks App. T at 220a-228a clashes with App R at 180a-196a Fridovich v. Fridovich!

69. Petitioners submit that there is a law on the books which allows the Judiciary to instantly order the arrest of anyone identified under Federal Rules of Criminal Procedure Rule 3 and 4 but no private citizen can file any document related to Fed.R.Crim.P. Rule 3 as no Judge will take the Oath on such a document claiming in lock-step that the Rule is not allowed for private citizens as once signed with Oath taken and signed by a Judge the Judge has to order arrest of the suspects under Rule 4.

70. The Supreme Court of Florida allowed through the Internal Operating Procedures App. G at 16a-17a and Jenkins v. State of Florida App. S at 197a-219a a Constitutional Violation which damaged Petitioners and over 30,000 people under a Senate Joint Resolution 20-C or SJR 20-C smoke screen where a Constitutional Amendment was placed on the ballot in Florida to 'Give More Power To The Supreme Court' as indicated in Jenkins v. State, supra. Such known unconstitutional trickery resulted everyone trusting the Supreme Court of Florida and since many Justices came out of the building to talk on the need for more power, no one suspected nor realized that the Vote taken would not increase the power of the Supreme Court but remove power of the people and give more power to the district courts of appeal in that the Supreme Court made the assistant

clerks the final decision on a district court of appeal case with a "PCA" 'without written opinion and automatically took the money, gave the filing a number then denied the case and rehearing on heir own without ever allowing a Justice let alone a quorum of justices to view the filings. Such unconstitutional abuse of powers is not to be hidden or tolerated once exposed here.

71. The Manual of Internal Operating Procedures Updated January 2002 page 4 Section II Internal Procedures For Handling Cases, Supreme Court of Florida Stated:

"A. Discretionary Review.

1. Discretionary Review of District Court of Appeal Decisions (Except Those Certified By District Court of Appeal).

(a) When a party files a notice seeking to invoke discretionary review, the clerk's office determines whether the district court of appeal has written an opinion in the case. If there is no opinion, the case is automatically docketed and automatically dismissed by the clerk's office. In such cases, no rehearing is allowed. If there is a written opinion, the clerk's office dockets the case, and when all jurisdictional briefs have been filed, assigns the case to a panel of five justices according to a rotation formula, and the file goes to the office of the assigned justice on the panel. The assigned justice's office prepares a memorandum summarizing the basis for jurisdiction asserted in the jurisdictional briefs and analyzing whether a basis for exercising discretionary jurisdiction exists. Copies of the briefs and memorandum then to the offices of each justice on the

panel to vote on whether review should be granted and, if so, whether oral argument should be heard. Five justices constitute a quorum, and the concurrence of four justices is required to grant or deny review. If fewer than four justices on the panel agree on a disposition, the case circulates to the two members of the Court not originally assigned to the panel. Several possibilities result from circulation of petitions for discretionary review." [Emphasis Petitioners]

72. Clearly Petitioners are correct that their rights were indeed violated and such fact remains hidden to this very date by Florida Jurists and BAR members for reasons to deprive Petitioners from receiving a fair trial before a True Court in Florida or Federal Court which should not be condoned by this Court under any circumstances as all people/visitors of Florida are victims or potential victims.

Dated: September 11, 2006

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APPENDIX

Supreme Court, U.S.
FILED
06-382 JUL 28 2006
OFFICE OF THE CLERK

(2)

No. _____

IN THE

Supreme Court of the United States

October Term, 2006

RUTH D. BUNDY;
RALPH CHARLES WHITLEY, SR.,
Petitioners,

vs.

JAMES H. BOARD; RANDALL ODO REDER; JOHN WILKINS DAY; JUDGE HERBERT JOHN BAUMANN, JR., In His Official Capacity; SUPREME COURT OF FLORIDA; DISTRICT COURT OF APPEAL SECOND DISTRICT OF FLORIDA; BRUCE WELCH, M.D.; COLGI, INC., A Florida Corporation for Profit; STEVE MARTIN,
Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT.

CORRECTED APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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APPENDIX A

Order of the United States Court of Appeals for the Eleventh Circuit, Filed March 28, 2006.

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 05-15938-AA

RUTH D. BUNDY,
RALPH CHARLES WHITLEY, SR.,
Plaintiffs-Appellants,

Filed
MAR 28, 2006

versus

JAMES H. BOARD
RANDALL ODO REDER,
JOHN WILKINS DAY,
ET AL.,
Defendants-Appellees.

Appeal from the United States District Court for the Middle District of Florida

BEFORE: TJOFLAT, BLACK, and CARNES, Circuit Judges.

BY THE COURT:

The January 23, 2006, motion to dismiss this appeal is DENIED. Appellants' October 4, 2005, motions for reconsideration tolled the time to appeal, thus Appellants' October 25 notice of appeal was timely filed from the

September 20 order dismissing the case and the October 11 order denying Appellants' motions for reconsideration. Fed.R.App.P. 4(a)(1), (4)(a)(4), 26(a)(1), 26(a)(2); Fed.R.Civ.P. 59(e), 60(b); see also Finch v. City of Vernon, 845 F.2d 256, 258-59 (11th Cir. 1988). The August, 25, 2004, order denying, inter alia, a recusal motion, is properly before the Court in the present appeal. Kirkland v. Nat'l Mortgage Network, Inc., 884 F.2d 1367, 1370 (11th Cir. 1989).

However, upon review, the Court has determined that this appeal is frivolous. Therefore, on the Court's own motion, this appeal is DISMISSED AS FRIVOLOUS. See Eleventh Circuit Rule 42-4.

All remaining pending motions are DENIED AS MOOT.

APPENDIX B

Order of the United States District Court, Middle District of Florida, Tampa Division, Dated September 20, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RUTH D. BUNDY et al,
Plaintiffs,

v.

CASE NO:
8:04-cv-1439-T-23TBM

JAMES D. BOARD et al,
Defendants /

ORDER

Ruth D. Bundy and Ralph Charles Whitley, Sr. (the plaintiffs'), proceeding pro se, bring a civil rights complaint (Fn1) under 42 U.S.C. §§ 1981 through 1986 against an array of "conspirators" collectively designated "the Judicial Branch of Government of Florida" (Doc. 1) The plaintiffs allege

FN 1 The complaint consists of eighty-four pages of rambling, disjointed, and incoherent allegations. The plaintiffs' claims apparently arise from a state-court civil case litigated in October 2002, and the plaintiffs' subsequent unsuccessful appeals (Doc 1, at 2). The Complaint is replete with allegations of "reversible errors" and request for this court to "quash" state-court orders thereby "allowing a new trial: (Doc 1, at 3). To the extent that plaintiffs seek to appeal an earlier state-court adjudication, such an appeal is barred. See D.C. Court of Appeals V. Feldman, 460 U.S. 462, 482 (1983); Rooker v. Fidelity trust Co., 263 U.S. 413, 416 (1923). A unanimous Supreme Court has held that Rooker-Feldman bars a federal district court from hearing "case brought by state-court losers complaining of injuries caused by state-court judgments rendered before the district court proceedings commenced and inviting district court

(continued)

violations of their First, Second, Third(!), Fourth, Fifth, and Fourteenth Amendment rights (Doc. 1, at 75). The plaintiffs further allege perjury, conspiracy, intentional infliction of emotional distress, and multiple "violations" of the Florida Rules of Civil Procedure and the Florida Rules of Evidence (Doc. 1) The defendants include the Supreme Court of Florida ("the Florida Supreme Court"); the Florida Second District Court of Appeal ("the Florida 2ND DCA"); Thirteenth Judicial Circuit Judge Herbert John Baumann ("Judge Baumann"); attorneys John Day ("Day"); and Randall Reder ("Reder"); Dr. Bruce Welch, a board certified psychiatrist ("Dr. Welch"); Colgi, Inc., a Florida Corporation ("Colgi"); Steve Martin, a refrigerator repairman ("Martin"); and, James Board, a dead man ("Board"). The plaintiffs demand $17 million from each defendant (Doc 1, at 2)

Each defendant either moves to dismiss the complaint or moves for judgment on the pleadings. (Fn2) A pleading drafted by a pro se party is interpreted under less stringent standards than a pleading drafted by an attorney. Tannenbaum v. United States, 148 F.3d 1262, 1263 (11TH Cir. 1998). However, "[e]ven in the case of pro se litigants... leniency does not give a court license to serve as de facto counsel for a party, ... or to rewrite and otherwise deficient pleading in order to sustain and action." GRJ Inv., Inc. v. County of Escambia, 132 F.3d 1359, 1369 (11TH Cir. 1998).

(FN1 Continued)
review and rejection of those judgments." Exxon Mobil Corp. v. Saudi Basic Industries Corp., 125 S. Ct. 1517, 1521 (2005).

Fn2 Reder submits a paltry three-sentence motion to dismiss the complaint (Doc. 7). This motion is **DENIED** for failure to comply with Local Rule 3.01(a). However, because the complaint fails to state a cognizable claim, Reder benfits from the arguments and legal authorities marshaled by other defendants.

At all times relevant to the complaint, the Florida Supreme Court, the Florida 2ND DCA, and Judge Baumann acted in their official capacities as members of the Florida judiciary. Every member of the Florida judiciary enjoys absolute judicial immunity. See Stump v. Sparkman, 435 U.S. 349, 355-57 (1978). "A judge is absolutely immune from liability for his judicial acts even if his exercise of authority is flawed by the commission of grave procedural errors." Id. at 359. See Bolin v. Story, 225 F.3d 1234, 1239-42 (11TH Cir. 2000). Allegations of bad faith or malice fail to overcome judicial immunity. Mireless v. Waco, 502 U.S. 9, 11 (1991). Accordingly, the motion to dismiss filed by the Florida Supreme Court, the Florida 2ND DCA, and Judge Baumann (Doc. 31) is **GRANTED.**

As to the remaining defendants, the complaint alleges no facts to support a claim against them under 42 U.S.C. §§1981 through 1986. Because the plaintiffs allege neither membership in a protected minority nor discrimination based on racial animus, the plaintiffs fail to state a claim under 42 U.S.C. §§ 1981 and 1982. See Daniels v. Dillard's, Inc. 373 F.3d 885, 887 (8TH Cir. 2004); Rutstein v. Avis Rent-a-Car Sys., Inc. 211 F.3d 1228, 1235 (11TH Cir. 2000); Shower v. City of Bartow,978 F. Supp 1464, 1469 (M.D. Fla. 1997). Similarly, without any allegation of race or class-based animus, the plaintiffs fail to state a claim under 42 U.S.C. § 1985. Childree v UAP/GA CHEM, Inc, 92 F.3d 1140, 1147 (11TH Cir. 1996), cert. denied, 519 U.S. 1148 (1997). With no colorable claim under the prerequisites 42 U.S.C. § 1985, the plaintiffs cannot state a valid claim under 42 U.S.C. § 1986. See 42 U.S.C §1986. Finally, none of the remaining defendants are state actors. Because the complaint fails to allege that any of the remaining defendants acted under color of law in depriving the plaintiffs of any right, privilege, or immunity granted by the Constitution, the plaintiffs fail to state a claim under

42 U.S.C. § 1983 Lugar v. Edmonson Oil Co., Inc., 457 U.S. 922, 936 (1982).

Accordingly, the motions to dismiss filed by Colgi (Doc. 40), Board, appearing de bene esse (Doc. 41), and Martin (Doc 44) are **GRANTED.** Likewise, the motions for judgment on the pleadings filed by Day (Doc. 54) and Dr. Welch (Doc. 55) are **GRANTED**. The plaintiffs' motion to substitute the Estate of James H. Board as a party for Board (Doc. 56) and motion for extension of time to complete discovery (Doc 51) are **DENIED AS MOOT**. The plaintiffs' motion (Doc. 37) for sanctions against Day lacks merit and is **DENIED**. Because all of the plaintiffs' federal claims will be dismissed, the court, under 28 U.S.C. § 1367(cc)(3) declines to exercise jurisdiction over any of the plaintiffs' remaining state claims.

This action is **DISMISSED WITH PREJUDICE.** The Clerk is directed to (1) terminate any pending motions and (2) close the case.

ORDERED in Tampa, Florida, on September 20, 2005.

/SS/
STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

cc: US Magistrate Judge
Courtroom Deputy
Pro Se Plaintiffs

APPENDIX C

Order of the United States District Court, Middle District of Florida, Tampa Division, Dated August 25, 2004.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RUTH D. BUNDY et al.,
Plaintiffs,

v. CASE NO. 8:04-cv-1439-T-23TBM

JAMES H. BOARD et al.,
Defendants.
_____/

ORDER

Judge Herbert John Baumann, Jr., the Florida Supreme Court, and the Second District Court of Appeal's motion to dismiss (Docs. 5 & 6) is **STRICKEN** because defense counsel failed to sign the motion. See Local Rule 1.05(d); see also Admin. Pro. For Elec. Filing In Civ. & Crim. Cases § II.C. Judge Baumann, the Florida Supreme Court, and the Second District Court of Appeal will either again move to dismiss or otherwise respond to the complaint on or before **September 10, 2004**. The plaintiffs' responses to the motion to dismiss (Docs. 10 & 11) are **STRICKEN** for failure to comply with Local Rule 3.01(c) ("Absent prior permission of the Court, no party shall file any brief or legal memorandum in excess of twenty (20) pages in length.").

Along with a motion for enlargement of the time for responding to the complaint, John W. Day filed an "answer" (Doc. 8). Accordingly, Day's motion for enlargement of the time for responding to the complaint (Doc. 8) is **DENIED AS MOOT**. Subject to the requirements of any pertinent rule, Day remains free to seek amendment of the answer if necessary.

Because the plaintiffs raise no reason that warrants my recusal from this matter, the plaintiffs' motion for my recusal (Doc. 13) is **DENIED**. See 28 U.S.C. § 455. The plaintiffs' motion for production of the "Statutory Bond of all Defendant judges from the Supreme Court of Florida [and the] Second District Court of Appeal and . . . Defendant Herbert John Baumann, Jr." (Doc. 15) is **DENIED**.

Finally, the plaintiffs move for entry of default against Steve Martin (Doc. 14). The plaintiffs assert service of process on Martin by service on attorney Randall Odo Reder (Docs. 14 & 21) However, the plaintiffs neither assert nor demonstrate that Reder qualifies as an "agent authorized by appointment or by law to receive service of process" on behalf of Martin. Fed. R. Civ. P. 4(e)(2); see Durbin Paper Stock Co. v. Hossain, 97 F.R.D. 639 (S.D. Fla. 1982) ("Service of process is not effectual on an attorney solely by reason of his capacity as an attorney. The party must have appointed his attorney as his agent for service of process before personal jurisdiction is obtained over the party by service on his attorney."); C.A. Wright & A.R. Miller, 4A Fed. Practice & Pro. § 1097. Accordingly, the plaintiffs' motion for entry of default against Martin (Doc. 14) is **DENIED**. The plaintiffs will serve Martin in compliance with Rule 4, Federal Rules of Civil Procedure, by **September 17, 2004**. Failure to serve by the deadline will result in dismissal of the claims against Martin.

The Clerk is directed to terminate Judge Herbert John Baumann, Jr., the Florida Supreme Court, and the Second District Court of Appeal's motion to dismiss (Docs. 5 & 6).

ORDERED in Tampa, Florida, on August 25, 2004.

/SS/
Steven D. Merryday
United States District Judge

cc: Courtroom Deputy

APPENDIX D

Order of the United States Court of Appeals for the Eleventh Circuit, Denying Motion for Reconsideration, Filed May 2, 2006.

UNITED STATES COURT OF APPEALS
ELEVENTH CIRCUIT

No. 05-15938-AA

RUTH D. BUNDY,
RALPH CHARLES WHITLEY, SR.,

Filed
May 02, 2006

Plaintiffs-Appellants,

versus

JAMES H. BOARD,
RANDALL ODO REDER,
JOHN WILKINS DAY, ET AL.,

Defendants-Appellees.

Appeal from the United States District Court for the Middle District of Florida

BEFORE: TJOFLAT, BLACK, and CARNES, Circuit Judges.
BY THE COURT:

Appellants' motion for reconsideration of the Court's March 28, 2006 Order dismissing this appeal as frivolous is DENIED.

APPENDIX E

Order of the United States District Court, Middle District of Florida, Tampa Division, Denying Motions for Reconsideration, Dated October 10, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

RUTH D. BUNDY, et al,

Plaintiffs,

v. **CASE NO: 8:04-cv-1439-T-23TBM**

JAMES D. Board, et al,
Defendants.
/

ORDER

The court dismissed this case with prejudice (Doc. 90) on September 20, 2005.
The pro se plaintiffs' motions for reconsideration (Docs. 91, 92, 93) are DENIED.

ORDERED in Tampa, Florida, on October 10, 2005.

/SS/
STEVEN D. MERRYDAY
UNITED STATES DISTRICT JUDGE

cc: US Magistrate Judge
Courtroom Deputy

APPENDIX F

Senate Joint Resolution No. 20-C, Article V, Filed November 29, 1979.

SENATE JOINT RESOLUTION NO. 20-C

A joint resolution proposing an amendment to Section 3, Article V of the State Constitution, relating to the organization and jurisdiction of the Supreme Court.

Be it Resolved by the Legislature of the State of Florida:

That the following amendment to Section 3 of Article V of the State Constitution is hereby agreed to and shall be submitted to the electors of this state for approval or rejection at a special election to be held in conjunction with the presidential preference primary election in March 1980; and which, if approved, shall take effect April 1, 1980.

ARTICLE V

JUDICIARY

Section 3. Supreme Court.

(a) Organization. The supreme court shall consist of seven justices. Of the seven justices, each appellate district shall have at least one justice elected or appointed from the district to the supreme court who is a resident of the district at the time of his original appointment or election. **Five justices shall constitute a quorum. The concurrence of four justices shall be necessary to a decision.**

When recusals for cause would prohibit the court from convening because of the requirements of this section,

judges assigned to temporary duty may be substituted for justices.

(b) Jurisdiction. The supreme court:

(1) Shall hear appeals from final judgments of trial courts imposing the death penalty and from decisions of district courts of appeal declaring invalid a state statute or a provision of the state constitution.

(2) When provided by general law, shall hear appeals from final judgments entered in proceedings for the validation of bonds or certificates of indebtedness and shall review action of statewide agencies relating to rates or service of utilities providing electric, gas, or telephone service.

(3) May review any decision of a district court of appeal that expressly declares valid a state statute, or that expressly construes a provision of the state or federal constitution, or that expressly affects a class of constitutional o r state officers, or that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.

(4) May review any decision of a district court of appeal that passes upon a question certified by it to be of great public importance, or that is certified by it to be in direct conflict with a decision of another district court of appeal.

(5) May review any order or judgment of a trial court certified by the district court of appeal in which an appeal is pending to be of great public importance, or to have a great effect on the proper administration of justice throughout the state, and certified to require immediate resolution by the supreme court.

(6) May review a question of law certified by the Supreme Court of the United States or a United States Court of Appeals which is determinative of the cause and for which there is no controlling precedent of the supreme court of Florida .

(7) May issue writs of prohibition to courts and all writs necessary to the complete exercise of its jurisdiction.

(8) May issue writs of mandamus and quo warranto to state officers and state agencies.

(9) May, or any justice may, issue writs of habeas corpus returnable before the supreme court or any justice, a district court of appeal or any judge thereof, or any circuit judge.

(c) Clerk and Marshal. The supreme court shall appoint a clerk and a marshal who shall hold office during the pleasure of the court and perform such duties as the court directs. Their compensation shall be fixed by general law. The marshal shall have the power to execute the process of the court throughout the state, and in any county may deputize the sheriff or a deputy sheriff for such purpose.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE V, SECTION 3

Proposing an amendment to the State Constitution to modify the jurisdiction of the Supreme Court.

Filed in Office Secretary of State November 29, 1979.

PETITIONER'S FLORIDA VOTE RESULTS

1979 SJR 20-C (jurisdiction of supreme court) Modified the jurisdiction of the supreme court. Adopted:

For: 940,420

Against:460,266

[Emphasis Petitioners]

APPENDIX G

Supreme Court of Florida, Manual of Internal Operating Procedures, Updated January 2002.

Supreme Court of Florida
MANUAL OF INTERNAL OPERATING PROCEDURES
Updated January 2002

Section II. Internal Procedures For Handling Cases.

A. Discretionary Review.

1. Discretionary Review of District Court of Appeal Decisions
(Except Those Certified by District Courts of Appeal).

> " **(a) When a party files a notice seeking to invoke discretionary review, the clerk's office determines whether the district court of appeal has written an opinion in the case. If there is no opinion, the case is docketed and automatically dismissed by the clerk's office. In such cases, no rehearing is allowed.** If there is a written opinion, the clerk's office dockets the case, and when all jurisdictional briefs have been filed, assigns the case to a panel of five justices according to a rotation formula, and the file goes to the office of the assigned justice on the panel. The assigned justice's office prepares a memorandum summarizing the basis for jurisdiction asserted in the jurisdictional briefs and analyzing whether a

basis for exercising discretionary jurisdiction exists. Copies of the briefs and memorandum then go to the offices of each justice on the panel to vote on whether review should be granted and, if so, whether oral argument should be heard. Five justices constitute a quorum, and the concurrence of four justices is required to grant or deny review. If fewer than four justices on the panel agree on a disposition, the case circulates to the two members of the Court not originally assigned to the panel. Several possible actions result from the circulation of petitions for discretionary review.

[Emphasis Petitioners]

APPENDIX H

Motion of Appellants For Order to Compel Counsel to Respond and Appellants Notice of Objection to Answer of Attorney Equi, Dated January 13, 2006.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Ruth D. Bundy and Ralph Charles Whitley, Sr.
Appellants,

v.

JAMES H BOARD, Randall Odo Reder, John Wilkins Day, Herbert John Baumann, Jr., in his official capacity, SUPREME COURT OF FLORIDA, DISTRICT COURT OF APPEALS, SECOND DISTRICT OF FLORIDA, Bruce Welch M.D., COLGI, INC, a Florida Corporation for profit, and Steve Martin,

Appellees.

AN APPEAL FOR REVIEW OF THE COURSE OF CONDUCT OF:
STEVEN D. MERRYDAY, DJ, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION
Case 8:04-cv-1439-T-TMB

APPELLANTS' MOTION FOR ORDER TO COMPEL COUNSEL TO PROPERLY RESPOND AND APPELLANTS NOTICE OF OBJECTION TO ANSWER OF ATTORNEY EQUI

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028
Phone: (813)286-2333

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
Tampa, Florida 33609-2024
Phone:(813)286-7783

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Neither Appellant Ruth D. Bundy nor Appellant Ralph Charles Whitley, Sr. participated in any corporate organizations.

1. Defendant Herbert John Baumann, Jr. represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_ robles@oag.state.fl.us

2. Defendant JAMES H. BOARD represented by Attorney Brian D. Equi P.O. Box 945401, Maitland, FL 32794-5401 Phone: 407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3. Plaintiff Ruth D. Bundy, In Proper Person, 4503 W. North A St., Tampa, FL 33609-2028 Phone: 813/286-7783 Fax: 813/636-4022 Email: backflow.prevention@verizon.net

4. Defendant COLGI, INC. represented by Attorney Brian D. Equi, P.O. Box 945401, Maitland, FL 32794-5401 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

5. Defendant John Wilkins. Day represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

6. Defendant Randall Odo Reder represented by Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave, Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

7. Defendant Second District Court of Appeal represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Second District Court of Appeal of Florida
Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley

8. Defendant Supreme Court of Florida represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100, Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Supreme Court of Florida
Justice Henry Lee Anstead
Justice Kenneth B. Bell
Justice Raoul G. Cantero, III
Clerk Thomas D. Hall
Justice R. Fred Lewis
Chief Justice Barbara J. Pariente
Justice Peggy A. Quince
Justice Charles T. Wells

9. Defendant Bruce Welch, M.D. represented by represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

10. Plaintiff Ralph Charles Whitley, Sr. In Proper Person, 4532 W. Kennedy Blvd. PMB 276 Tampa, FL 33609-2042 813/286-7783 Fax: 813/286-7783 Email: fuelzonerep@aol.com

11. ACE Fire Underwriters Insurance Company [ACE USA Limited]

STATEMENT REGARDING ORAL ARGUMENTS

Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr. desire to participate in oral arguments pursuant to Federal Rules of Appellate Procedure Rule 34 and 11TH

Cir. R. 34 because of a compelling interest in the outcome involving anyone filing anything with the Supreme Court of Florida or a District Court of Appeal.

COME NOW Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr., in proper person, pursuant to the Rules of this Honorable Court any relevant legal Title/Code/Case Law/Constitution possible for a Motion to Compel Counsel for Appellees to properly respond as well as providing NOTICE OF OBJECTION to Answer dated 01/06/06 of Attorney Equi received in this matter and in support would submit:

1. Appellants respectfully MOVE for an Order from this Honorable Court for a MOTION TO COMPEL COUNSEL TO PROPERLY RESPOND to the filings received and all exhibits forwarded relative to this Appeal involving an unusual and rare important legal principle exposed by Appellants worthy of consideration for an Order to stop Appellees refusing to address the issues of this Case by senseless rhetoric, frivolous arguments and Case Law quotes and citations not relevant, and in fact not similar in Findings and/or Conclusions relative to the issues of this unique Case now before the 11th USCA.

2. Appellants include herein a NOTICE OF OBJECTION to the use of Case Law and Citations due to relevance [IE: Rooker-Feldman and other Citations used by the Defense Counsel EQUI are not similar in style and substance to sustain proper defense in this unique and style of action.] Rooker-Feldman and other dissimilar citations address what a Judge is responsible for as a result of a Judges actions and fails to address the responsibility of a Judge who intentionally fails to act let alone a full Supreme

Court failing to act under the known Constitution/Rules/Laws for the United States of America/State of Florida, therefore the filing from Equi is perceived as fraudulent, concealing a felony known to have occurred and irrelevant and should not be considered by this Honorable Court.

3. Appellants are fully aware this Honorable Federal Court of Appeals knows and recognizes the Constitutionally protected rights, plus any other relevant statutes/laws/codes/rules which guarantee anyone a fair trial, equal access to a Court of proper jurisdiction, protect against the Judiciary not looking at a case or making a ruling with a quorum of justices on any appeal and the Rules of Federal and State Court plus Canons/Codes mandate specific performance of any jurist in any Civil case situation which may not be ignored or overlooked without sanctions by an Appeal Court as proven in this Case.

4. As indicated in Appellants Initial Brief and supported by Exhibits and Supplemental Exhibits, it is believed plain to this Honorable Court that such filings have clearly, decidedly and intentionally been denied the same guaranteed RIGHTS afforded lawyers and their clients by previous Courts in Florida and therefore this Honorable Court should award Appellants a NEW TRIAL ab initio in a lawful court of proper jurisdiction or in the alternative, this Honorable Court should set aside previous Court findings and Conclusions of Law in this case in that said Findings and Conclusions of Law were specifically not adjudicated by a Lawful Court of Proper Jurisdiction ab initio `from beginning' even if it means allowing a NEW TRIAL in Federal Court if the State Court cannot qualify.

5. The Honorable Court should consider the Constitution and Laws of the United States and the State of Florida plus any applicable Rules, Codes of Conduct approved by the Supreme Court of the United States and Congress which forbids this Honorable Court from considering said statements and filings of Attorney Equi received with obvious FITS OF FANCY thus sustain Appellants Objections and Issue Motions to Compel actions pursuant to the Constitution, Laws, Titles, Codes of Conduct and Rules of Court for the United States of America and State of Florida plus any other relevant known or unknown statutes/titles/laws/rules already known by the members of the 11TH United States Court of Appeal as a Federal Court of Appeal of the United States of America.

6. Appellants PRAY this Honorable Court will seriously consider the Motion and NOTICE filed herein and hopefully DISMISS said Answer including statements from Attorney Equi signed 01/06/02 as fits of fancy and sustain Appellants Objection pursuant to any other relevant Title, Code, Law or Constitution or Rule well known by Federal Court pursuant to Titles 18, 28, 42 United States Code.

CERTIFICATE OF SERVICE

It is certified that service of the foregoing Motion to Compel and Notice brief has been made on this 13TH day of January, 2006 by mailing one copy thereof first class in envelopes provided addressed to:

A. Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_robles@oag.state.fl.us

B. Attorney Brian D. Equi P.O. Box 945401, Maitland, FL 32794-5401 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

C. Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

D. Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

E. Attorney Bob Cusmano, General Counsel and Secretary, ACE Limited c/o ACE USA, 5100 West Lemon Street, Suite 207, Tampa , Florida 33609 Phone: 813-281-1400 Fax: 813-281-1398 E-mail: info@ace-ina.com

Signed this 13TH day of January, 2006

/SS/

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028
Phone: (813) 286-2333 Fax: (813) 636-4022 E-MAIL:
backflow.prevention@verizon.net

/SS/

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd. PMB-276
Tampa, Florida 33609-2024 Phone: (813) 286-7783
Fax: (813) 286-7783 E-MAIL: fuelzonerep@aol.com

APPENDIX I

Appellants' Motion or Request for Judicial Notice, Dated January 30, 2006.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Ruth D. Bundy and Ralph Charles Whitley, Sr.
Appellants,

v.

JAMES H BOARD, Randall Odo Reder, John Wilkins Day, Herbert John Baumann, Jr., in his official capacity, SUPREME COURT OF FLORIDA, DISTRICT COURT OF APPEALS, SECOND DISTRICT OF FLORIDA, Bruce Welch M.D., COLGI, INC, a Florida Corporation for profit, and Steve Martin,
Appellees.

AN APPEAL FOR REVIEW OF THE COURSE OF CONDUCT OF: STEVEN D. MERRYDAY, DJ, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION

APPELLANTS' MOTION OR REQUEST FOR JUDICIAL NOTICE

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Appellant, Witness, Victim
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Phone: (813)286-2333

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB-276
Tampa, Florida 33609-2042
Phone: 813-417-8747

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Neither Appellant Ruth D. Bundy, nor Appellant Ralph Charles Whitley, Sr. participated in any corporate organizations. The People of the State of Florida should have an interest in this Case.

1. Defendant Herbert John Baumann, Jr. represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe robles@oag.state.fl.us
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5. Defendant John Wilkins. Day represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com
6. Defendant Randall Odo Reder represented by Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 131.9 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

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Members of the Second District Court of Appeal of Florida
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Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley

8. Defendant Supreme Court of Florida represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe Robles@oag.state.fl.us

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Justice Henry Lee Anstead
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Clerk Thomas D. Hall
Justice R. Fred Lewis
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Justice Charles T. Wells

9. Defendant Bruce Welch, M.D. represented by represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

10. Plaintiff Ralph Charles Whitley, Sr. In Proper Person, 4532 W. Kennedy Blvd. PMB 276 Tampa, FL 33609-2042 813/286-7783 Fax: 813/286-7783 Email: fuelzonerep@aol.com

11. ACE Fire Underwriters Insurance Company [ACE USA Limited]

STATEMENT REGARDING ORAL ARGUMENTS

Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr. desire to participate in oral arguments pursuant to Federal Rules of Appellate Procedure Rule 34 and 11TTT Cir. R. 34 because of a compelling interest in the outcome involving anyone filing anything with the Supreme Court of Florida or a District Court of Appeal.

APPELLANTS' MOTION OR REQUEST FOR JUDICIAL NOTICE

COME NOW Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr., victims, witnesses, non attorneys, pursuant to the Federal Rules of Appellate Procedure and Federal Rules of Evidence asking for this Honorable Court to take Judicial Notice as indicated herein and in support reference Federal Rules of Evidence Section 201 and all other applicable Rules, Laws, Constitutions, Statutes, Titles Federal or State of Florida stating:

FEDERAL RULES OF EVIDENCE SECTION 201 AND CONSTITUTION AND LAWS FOR THE UNITED STATES OF AMERICA AND STATE OF FLORIDA

1. Appellants request that this Court take judicial notice of Federal Rules of Evidence and particularly Section 201 (a) in that It is an adjudicative fact that Article VI Clause 3 requires all state and federal public officers be bound by their oath of office. Article II Section 5, Florida Constitution requires all state public officers be bound by oath. The following alleged former/current imposter state/federal public officers can not provide proof to any lawful state/federal public officer that they were bound in Florida by a surety bond nor oath for the faithful and diligent performance of the office duties for the state public offices they claimed to hold before accepting any appointment to public office.

2. The following alleged imposter judges and BAR members are provided to this Court for consideration.

3. 11th United States Court of Appeal including:

Judge Rosemary Barkett Judge
Susan H. Black
Judge Stanley Marcus
Judge Charles R. Wilson

4. Florida Supreme Court including:

Justice Henry Lee Anstead
Justice Kenneth B. Bell
Justice Raoul G. Cantero, III
Clerk Thomas D. Hall
Justice R. Fred Lewis
Chief Justice Barbara J. Pariente
Justice Peggy A. Quince
Justice Charles T. Wells

5. Second District Court of Appeal including:

Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley

6. Hillsborough County Circuit Court Herbert John Baumann, Jr.

7. Members of THE FLORIDA BAR representing themselves or appellees in all Federal Cases mentioned herein and Day and Reder for other cases as applicable in State Court:

   Attorney John Wilkins Day
   Attorney Brian Equi
   Attorney Randall Odo Reder
   Attorney Joseph A. Robles

   Including the Private Citizens or Corporations indicated as Appellees represented herein known as COLGI, INC., JAMES H. BOARD, STEVE MARTIN BRUCE WELCH.
   FEDERAL/STATE OF FLORIDA LAWS, CONSTITUTION, STATUTES KNOWN TO THIS COURT AND ATTORNEYS

8. Appellants request Judicial Notice of Titles 18, 28, 42 U.S. Code as well as the Constitution for the United States of America including all sections applicable to this very case.

9. Appellants request Judicial Notice of Florida State Statutes Chapters 777, 837 including all other statutes applicable to this very case.

10. Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr., non attorneys, victims, witnesses, have been denied competent courts of law and the constitutionally mandated due process of law because none of those persons named above held positions as judges lawfully and only claimed to hold public

office; that matter is before the Court in the Opening Brief. Still further, their individual deceptions continue unabated in that they deceived the President of the United States of America and/or Governor of the State of Florida at least twice upon nomination first and later upon appointment to office and the United States Senate or Florida Legislative Branch during the confirmation process that they were in full compliance with both constitutions in direct conflict with Sections 3 and 4 of the Fourteenth Amendment, a major deception in and of itself. Current bonding requirements under 31 U.S.C. Sections 9301 to 9309 in general and Section 9304 in particular are relevant and pertinent to this matter.

11. Further, Section 201(b) applies as the fact that the above Named persons were not bound by the oath of office while claiming to be state public officers can be readily determined by resort to formal document required to be of record within the Office of the Florida Secretary of State where the accuracy of such documents cannot reasonably be questioned.

12. Further, Section 201(c) applies as the Court is requested to take judicial notice of the fact that those named above were not bound by the oath of office constitutionally required by Article VI Clause 3 and thereby denied the power of the Constitution for the United States of America which removes any discretion available to the Court.

13. Further, Section 201(d) applies as Judicial Notice of the fact that the above named individuals denied the power of the Constitution for the United States of America and the Constitution for the State of Florida. Further, the Appellants have provided legal facts,

points of law, and authorities in their Opening Brief sufficient, comprehensive, and essential to require mandatory judicial notice of evidence adversely affecting every citizen of the State of Florida who are also citizens of the United States of America to the extent that the honorable courts of law within the State of Florida are not competent for lack of state public officers as lawful judges.

14. Pursuant to Section 201(e) Appellants request an opportunity to be heard via Oral Arguments before this Honorable Court as to the facts surrounding this Case and as to the propriety of taking judicial notice and to the tenor of the matter noticed giving full notice of physical handicap problems which will require no longer than 10 minutes standing on doctors orders.

15. Pursuant to Section 201(0 the request for judicial notice of this matter is timely.

16. Pursuant to Section 201(g) no jury instructions are necessary for this request.

17. Appellants submit THE FLORIDA BAR members take an Oath under the Rules of this Court, Rules Regulating the Florida Bar and it is believed the persons identified above are in violation of the Oath and Rules of Court State or Federal as well as Requests for Admission to this or any Federal Court and aiding and abetting known perjury or fraud upon the court has clearly been indicated to include alleged jurists, clients and attorneys.

18. Appellants request this court to take judicial notice of Title 18 United States Code Sections 3, 4, 1621, 1622

which indicate by such laws NO IMMUNITY EXISTS FOR ANYONE.

19. Appellants request this court to take judicial notice of Florida State Statutes Chapters 777 and 837 which indicate by such laws NO IMMUNITY EXISTS FOR ANYONE.

20. Appellants request this court to take judicial notice of Federal and State CODES OF JUDICIAL CONDUCT, RULES OF COURT AND RULES REGULATING THE FLORIDA BAR which indicate NO ONE IS ABOVE THE LAW OR IMMUNITY EXISTS FOR FELONY CRIMINAL ACTS.

21. Appellants request this court to take judicial notice that any jurist must, according to Federal Law and State Law report anyone to a judge or appropriate authority under those laws and failure to follow the law could subject anyone to being charged or sued in a civil action as an accomplice, accessory or aiding and abetting a crime if not conspiracy when damage has occurred.

22. Appellants submit this court should take judicial notice of the Code of Judicial Conduct State and Federal which covers acts, actions and omissions or refusal to act when a jurist or BAR member applying to become a jurist.

23. Appellants request this court to take judicial notice of Title 42, Title 28 and Title 18 applicable sections of the United States Code as they apply to this case and lower tribunal case numbers provided.

WHEREFORE Appellants request this Honorable Court take JUDICIAL NOTICE as indicated in the above 23 paragraphs.

CERTIFICATE OF SERVICE

It is certified that service of the foregoing by mailing copies thereof first class on or about the 30TH day of January, 2006 to:

1) Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe robles@oag.state.fl.us

2) Attorney Brian D. Equi P.O. Box 945401, Maitland, FL 32794-5401 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3) Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

4) Attorney Randall O. Reder Law Office of Randall O Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

Signed this 30TH day of January, 2006

/SS/

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028 Phone: (813) 286-2333
Fax: (813) 636-4022
E-MAIL: backflow.prevention@verizon.net

/SS/

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
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Phone: (813) 286-7783
Fax: (813) 286-7783
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APPENDIX J

Appellants' Verified Formal Notice Pursuant to Title 18 U.S.C. § 2382 Supported by Appellants' Motion to Reconsider, Modify or Vacate Order, Signed April 12, 2006.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Ruth D. Bundy and Ralph Charles Whitley, Sr.

Appellants,

v.

JAMES H BOARD, Randall Odo Reder, John Wilkins Day, Herbert John Baumann, Jr., in his official capacity, SUPREME COURT OF FLORIDA, DISTRICT COURT OF APPEALS, SECOND DISTRICT OF FLORIDA, Bruce Welch M.D., COLGI, INC, a Florida Corporation for profit, and Steve Martin,

Appellees.

AN APPEAL FOR REVIEW OF THE COURSE OF CONDUCT OF: STEVEN D. MERRYDAY, DJ, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION

APPELLANTS' VERIFIED FORMAL NOTICE PURSUANT TO TITLE 18 U.S.C. § 2382 SUPPORTED BY APPELLANTS' MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028
Phone: (813)286-2333

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
Tampa, Florida 33609-2024
Phone:(813)286-7783

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Neither Appellant Ruth D. Bundy, nor Appellant Ralph Charles Whitley, Sr. participated in any corporate organizations. The People of the State of Florida should be interested in Felonies exposed in this appeal.

1. Defendant Herbert John Baumann, Jr. represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_robles@oag.state.fl.us

2. Defendants JAMES H. BOARD and Steve Martin represented by Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3. Plaintiff Ruth D. Bundy, In Proper Person, 4503 W. North A St. Tampa, FL 33609-2028 Phone: 813/286-7783 Fax: 813/636-4022 Email: backflow.prevention@verizon.net

4. Defendant COLGI, INC. represented by Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

5. Defendant John Wilkins. Day represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

6. Defendant Randall Odo Reder represented by Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

7. Defendant Second District Court of Appeal represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Second District Court of Appeal of Florida
Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley

8. Defendant Supreme Court of Florida represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

   Members of the Supreme Court of Florida
   Justice Henry Lee Anstead
   Justice Kenneth B. Bell
   Justice Raoul G. Cantero, III
   Clerk Thomas D. Hall
   Justice R. Fred Lewis
   Chief Justice Barbara J. Pariente
   Justice Peggy A. Quince
   Justice Charles T. Wells

9. Defendant Bruce Welch, M.D. represented by represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

10. Plaintiff Ralph Charles Whitley, Sr. In Proper Person, 4532 W. Kennedy Blvd. PMB 276 Tampa, FL 33609-2042 813/286-7783
    Fax: 813/286-7783 Email: fuelzonerep@aol.com.

11. ACE Fire Underwriters Insurance Company [ACE USA Limited]

STATEMENT REGARDING ORAL ARGUMENTS

Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr. **desire to participate in oral arguments** pursuant to Federal Rules of Appellate Procedure Rule 34 and 11TH Cir. R. 34 because of a compelling interest in the outcome involving anyone filing anything with the Supreme Court of Florida or a District Court of Appeal.

APPELLANTS' VERIFIED FORMAL NOTICE PURSUANT TO TITLE 18 U.S.C. § 2382 SUPPORTED BY APPELLANTS'MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006

COME NOW Appellants', in proper person, following TIMELY FILING OF APPELLANTS' MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006 signed this date pursuant to Title 18 U.S. Code §§ 2, 3, 4, 5, 13, 241, 242, 245, 371, 1621, 2382 Plus Title 42 U.S. Code §§ 1981-1988, Florida State Statutes Chapters 777, 837 and any other law, Rule, Title or Constitution Federal or State including Rules of this Court of Appeal and in support under Title 28 U.S. Code § 1746 PENALTY OF PERJURY the following is submitted to this Court, The President of the United States and all Appellees:

1. **Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr., Citizens of the United States of America and State of Florida,** give formal notice pursuant to 18 U.S.C. § 2382 that suspected treason against the Constitution for the United States of America and the State of Florida is active within certain federal and state courts of law entirely within the Eleventh Circuit, and that former Federal, Military and State Oaths must be subordinated *under*

color of Supreme Court Rules to insurgents within the Eleventh Circuit and State of Florida Middle District who have deceived the Office of the President of the United States of America at least twice and the United States Senate at least once to acquire appointments to federal civil public office positions. We believe that conduct entitles us, pursuant to Title 10 U.S.C. § 899 and any other Title known or unknown, to declare these Appellees as enemies of the Constitution for the United States of America under the self-executing power of Sections 3 and 4, Fourteenth Amendment.

2. Appellants submit that the Motion filed today titled

"APELLANTS' MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006"

filed this date and **incorporated fully herein** gives PRIMA FACIE PROOF that Judicial Officers and Officers of the Court known as BAR member Attorneys and the Appellees identified herein have been served with Notice of the intent of Appellants to report the acts, actions and violations as allowed and mandatory under Federal Rules and Laws with a Verified Notice to the President of the United States.

3. Attached is an Order 'sua sponte' signed by a Clerk of the Eleventh U.S. Circuit Court of Appeals in Atlanta denying us access to the Federal Judiciary for the Eleventh Circuit under color of said court rules which efficaciously subordinates any Oath or Commission to those engaged in Treason or to those aiding and abetting that treachery along with reported Felony Perjury under Oath in Florida and Atlanta

deny us of the right to have action taken mandatory under the Federal Law and Constitution plus mandatory under State Law and Constitution for a court decision in the matter before any Federal District Court of Appeal action might be available in the captioned case or sufficient to justify a remedy for the dilemma created by the said treachery and continued perjury unreported to proper authorities by Federal Judiciary. [SEE EXHIBIT A]

4. The captioned case and cases identified herein from lower tribunals contains ***prima facie*** evidence that an insurrection against both of the Constitutions is known-actively harms a significant segment of the civil population within the State of Florida and within the jurisdiction of the Eleventh United States Court of Appeal in Atlanta or Federal Middle District of Florida and that the insurgent actively by the Appellees and State of Florida imposter Judges and imposter Public Officials denies Appellants the equal protection of the known laws so that exercise of the Presidential executive powers is essential to defend the Constitution and Laws for the United States of America.

5. Appellants submit it is essential that Governor John Ellis Bush as Governor of Florida has to also exercise his executive powers to defend the Constitution and Laws of the State of Florida as proof of violation of the Constitution of Florida by the entire Supreme Court of Florida and lower tribunal Judges plus BAR member attorneys allowed to practice in Florida Courts who ignore the solemn Oath taken and commit felony acts plus know and hide felony acts of their clients may not be any longer concealed or condoned

without arrest and conviction pursuant to existing Rule of Law.

6. Title 10 U.S.C. §§ 332, 333, and 334 grant the President respective authority: (a) to enforce the authority and faithful execution of the federal laws within the State and Federal Middle District of Florida plus Federal United States Court of Appeal for the 11th Circuit; (b) to take such measures deemed necessary for the suppression of insurgent activities which deny the equal protection of the laws to a significant segment of the civil population within the State and Federal Districts or Courts indicated herein; and (c) to command by proclamation the dispersal of the coherent organized insurgents and the cessation of their activities as well as Order the Federal Bureau of Investigation and United States Marshall's Service to IMMEDIATELY investigate and Arrest those found guilty of aiding and abetting such felony perjury and felony acts of Treason.. [See Florida Statutes Chapters 777 Accessory and 837 Perjury]

7. **Appellants respectfully suggests the President immediately *reassign* some lawful judges from outside the Eleventh Circuit for a temporary assignment to hear and determine the captioned cause or to certify the matter to the Supreme Court of the United States for adjudication as arising directly under Article III Section 2, Constitution for the United States of America, the latter action not now available to Appellants due to the three panel member Federal Judges of the 11TH USCA having issued the Order and not ALLOW Oral Arguments nor put anything on HOLD for a full investigation thus causing more damage to Appellants while all suspects of felony**

criminal acts and treason may go free due to the statute of limitations expiration.

8. **Appellants may not file a criminal complaint under the Federal Rules of Criminal Procedure Rule 3 as private citizens have been blocked from filing such a CRIMINAL COMPLAINT by Judges and Magistrates who state such Rule was written only to apply to a badge carrying sworn executive branch law enforcement officer who may file under the Rule which, once filed, mandates a court ORDER the arrest of any suspect so identified therein pursuant to Rule 4 Fed.R.Civ.P.. [No Federal Judge will sign a criminal complainants Oath that the complaint is True thus no private citizen may not file a criminal complaint as it must be sworn to before a JUDGE OR MAGISTRATE who refuse to do their sworn duty which is ministerial signing the Oath of one making a criminal complaint.]**

9. Rule 4, Federal Rules of Civil Procedures appears to preclude the Appellants from lawfully serving summons to the Appellees or members of the 11th U.S. Court of Appeal or Middle District of Florida; administrative attempts to provide summons under honorable conditions would be ignored or dishonored; and thereby, the judicial process has been stalled irrevocably causing the current dilemma and this dilemma about the Supreme Court of Florida has been ongoing since perhaps 1982 with NO BAR member ever pointing out the Constitutional Violation of the Justices of the Florida Supreme Court or any other Judge or fellow BAR member let alone a witness the BAR member calls to court.

10. Appellants have questioned the Judges NOT investigating PERJURY in their courts only to be told such is allowed by a case Fridovich V Fridovich or other cases and comments often come forward indicating that in a DIVORCE ONE PARENT OR THE OTHER MUST BE LYING AND WHO WANTS TO ARREST THE PARENTS FOR LYING which is quite unbelievable as lying under Oath is a FELONY like Rape, Robbery, Arson, unless the violator is a Judge or BAR member OR witness for the BAR member then no one investigates or arrests because perhaps most Sheriffs are advised by BAR members who were told ABSOLUTE JUDICIAL IMMUNITY PROTECTS EVERYONE... but this is not the LAW nor in the Constitutions for the United States of America OR State of Florida.

Wherefore, Appellants have determined through honorable administrative processes that Title 28 of the United States Code precludes the Appellants as United States of America and State of Florida Citizens from meaningfully anticipating investigation or arrest after reporting to the judiciary, both state and federal, as well as a local Sheriff, that treasonous activities and felony perjury are being imposed upon them without recourse; and that the dilemma now requires the executive powers of the President of the United States and Governor of Florida to remedy the constitutional defects.

Wherefore, the Court is formally advised and notified of their known malicious, deliberate and willful action to impose the treason reported to it upon the Appellants Bundy and Whitley without any recourse but to again send another letter to notify the President of the United States of America by certified United States Mail, postage prepaid, pursuant to Laws State and Federal plus Title 18

U.S.C. Section 2382 and other Titles of the United States Code of the felony acts and insurgency now active and to do so on the date this Notice follows the motion mailed.

WHEREFORE THE APPELLANTS SIGN THIS 12TH DAY OF APRIL, 2006 UNDER PENALTY OF PERJURY PURSUANT TO TITLE 28 U.S. CODE § 1746 UNDER THE LAWS OF THE UNITED STATES AND STATE OF FLORIDA THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

/SS/
Ruth D. Bundy

/SS/
Ralph Charles Whitley, Sr.

CERTIFICATE OF SERVICE

It is certified that the foregoing NOTICE has been mailed with Exhibits A this 12TH day of April, 2006 1st class to:

1) Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: joe_robles@oag.state.fl.us

2) Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3) Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

4) Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

5) Attorney Bob Cusmano, General Counsel and Secretary, ACE Limited c/o ACE USA, 5100 West Lemon Street, Suite 207, Tampa, Florida 33609. Phone 813-281-1400 Fax: 813-281-1398 E-MAIL: info@ace-ina.com

6) President George W. Bush and Vice President Richard Cheney, The White House, 1600 Pennsylvania Avenue NW, Washington DC 20500.

7) Governor John Ellis Bush, Governor of Florida, The Capitol, 400 South Monroe Street, Tallahassee, FL 32399

8) Sheriff David Gee, 2008n East 8TH Avenue, Tampa, Florida 33605

Signed this 12th day of April, 2006 at 10:40 PM Eastern Time.

/SS/
Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028
Phone: (813) 286-2333
Fax: (813) 636-4022
E-MAIL: backflow.prevention@verizon.net

/SS/
Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
Tampa, Florida 33609-2024
Phone: (813) 286-7783
Fax: (813) 286-7783
E-MAIL: fuelzonerep@aol.com

APPENDIX K

Appellants' Motion to Reconsider, Modify or Vacate Order Signed March 28, 2006, Dated April 12, 2006.

UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

Ruth D. Bundy and Ralph Charles Whitley, Sr.

Appellants,

v.

JAMES H BOARD, Randall Odo Reder, John Wilkins Day, Herbert John Baumann, Jr., in his official capacity, SUPREME COURT OF FLORIDA, DISTRICT COURT OF APPEALS, SECOND DISTRICT OF FLORIDA, Bruce Welch M.D., COLGI, INC, a Florida Corporation for profit, and Steve Martin,

Appellees.

AN APPEAL FOR REVIEW OF THE COURSE OF CONDUCT OF:
STEVEN D. MERRYDAY, DJ, UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION

APPELLANTS' MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
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Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
Tampa, Florida 33609-2024
Phone:(813)286-7783

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Neither Appellant Ruth D. Bundy, nor Appellant Ralph Charles Whitley, Sr. participated in any corporate organizations. The People of the State of Florida should be interested in Felonies exposed in this appeal.

1. Defendant Herbert John Baumann, Jr. represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_robles@oag.state.fl.us

2. Defendants JAMES H. BOARD and Steve Martin represented by Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

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7. Defendant Second District Court of Appeal represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Second District Court of Appeal of Florida

Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace

Judge James W. Whatley

8. Defendant Supreme Court of Florida represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Supreme Court of Florida
Justice Henry Lee Anstead
Justice Kenneth B. Bell
Justice Raoul G. Cantero, III
Clerk Thomas D. Hall
Justice R. Fred Lewis
Chief Justice Barbara J. Pariente
Justice Peggy A. Quince
Justice Charles T. Wells

9. Defendant Bruce Welch, M.D. represented by represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

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11. ACE Fire Underwriters Insurance Company [ACE USA Limited]

STATEMENT REGARDING ORAL ARGUMENTS

Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr. desire to participate in oral arguments pursuant to Federal Rules of Appellate Procedure Rule 34 and 11TH Cir. R. 34 because of a compelling interest in the outcome involving anyone filing anything with the Supreme Court of Florida or a District Court of Appeal.

APPELLANTS MOTION TO RECONSIDER, MODIFY OR VACATE ORDER SIGNED MARCH 28, 2006

COME NOW Appellants', in proper person, following ORDER of this Court dated 28 March 2006 applying through Motion To Reconsider, Modify Or Vacate Order Signed March 28, 2006 pursuant to 11TH Cir. R. 27-2 [2006] as Rules of this Court of Appeal and in support under Title 28 U.S.Code § 1746 PENALTY OF PERJURY the following is submitted:

1. The decision of this Federal Court of Appeal hiding under outrage as jurists protecting jurists and fellow BAR members labeling the Federal Judiciary panel of three judges who stated without rime or reason let alone Case Law or Law that the entire Appeal is 'FRIVOLOUS' aides and abets felony criminal conduct reported as mandated by Title 18 U.S. Code and State Law to Judges who do nothing.

2. The Federal Court of Appeal is fully aware of the undeniable merit stated in the Appeal and such decision rendered leaves the Appellants no competent courts of law within the State and District of Florida for seeking judicial remedies since none of the state judges have been taken an oath binding them thereto by a surety bond for the faithful and diligent performance of the duties of office which denies them the means to perfect title to the

office as judge thus Civil Rights protections under Laws and Constitutions were illustrated plainly.

3. Appellants have provided verifiable proof that the imposters within the State Judiciary have openly, maliciously and willfully violated their solemn duty to support and defend the Constitution and Laws for the State of Florida and United States of America thus stripping them of Jurisdiction in each case referenced herein and making ALL Judges, BAR Member Attorneys and witnesses perjurors/felony suspects under the Laws of the United States and State of Florida which may not be ignored/ denied without investigation requests against all identified.

4. Appellants submitted a timely appeal to the Federal Middle District of Florida court, even asking for Federal Judge Steven D. Merryday to consider recusal because of previous contact and similar "absolute judicial immunity claims' when none exist in Constitution or Laws for Florida or for the United States of America when a Judge looses jurisdiction and damages people in the same manner as clearly indicated by Appellants and no judge can ignore/hide the felony acts.

5. Appellants waited carefully to see what result an appeal and request for recusal would have on the case filed in the Middle District of Florida and were shocked that the Federal Judge failed to honor his Solemn Oath and mandatory law requiring him to personally take action on a Felony reported to a judge under Title 18 United States Code then received an Order closing the Case on Appeal indicating both Appellants could NOT file for Civil Rights Violations NOR report felony conduct to a Federal Judge to get relief or remedy.

6. Appellants clearly indicated the Entire Supreme Court of Florida NEVER saw cases on appeal as each was denied and rehearing denied by a mere Clerk as was proven by the Internal Operating Procedures or IOP's which indicated clearly lack of Jurisdiction lost by such actions by the Judges who were not with Bond and Oath properly on file with the State of Florida thus imposters aiding felony conduct.

7. Appellants were shocked to see that after such NOTICE AND APPEAL the Supreme Court of Florida changed the Internal Operating Procedures quietly attempting to nullify the undeniable fact that some 30,000 Citizens were also denied access to the Court or relief and remedy on their cases yet the Court Clerk deposited funds amounting to well over $7,500,000.00 collected from such Appeals and denials which violated the Constitution of the State of Florida as no quorum of justices made a decision on those cases denied solely by the Clerk.

8. Appellants provided full evidence of the existence and verification of this Unconstitutional Practice of the Entire Supreme Court of Florida and the 'PCA-Report' which is on the Internet and some 200 pages substantiates this claim by non attorneys since 1982 in Florida yet not one Federal/State Judge would listen or investigate let alone mandatorily report the Judges and other suspected felons to the proper authorities thus concealing, aiding and abetting felony conduct and Violations of the Constitution and Civil Rights of Citizens.

9. The Florida decisions leave the Appellants no competent courts of law within the Districts of Florida for seeking judicial remedies since all of the persons claiming to be even locally appointed Federal Judicial Officers deceived the President of the United States of America on two separate

occasions and the United States Senate at least once in order to acquire appointments to Federal Public Office as a Judge.

10. Appellant filed verifiable documents exposing such perjury and the Hillsborough County Sheriffs Office in Florida assigned Case File HCSO 02-140946 applies and for the Florida Department of Law Enforcement FDLE File EI-73-5183-38/38 and TN-48-479 apply with a Detective Derrick Grace finding the perjury claims were indeed true and involved Judge John Herbert Baumann, Jr. and others including BAR members who knew witnesses/clients were going to lie under oath or lied under oath.

11. Appellants filed numerous Motions for Disqualification and other items and observed violations of Canons by one Judge such as 3(e) as Judge Baumann's spouse was a material witness in the case and no judge would violate the Rules and Canons plus LAW involving a `case where recusal is automatic and mandatory let alone aide perjury.

12. Appellants felt the Rule Of Law and Oaths would stop felonies, fraud and miscarriage of justice yet were shocked that fellow jurists and BAR members would protect such felons under color of law by calling civil rights complaint or reports of felony conduct or violation of law 'frivolous' and law enforcement investigations stopped by BAR advisers in the same way Catholic Priests were protected as felons raping children as reports for years were 'frivolous' yet proven.

13. Appellants would be in JAIL for committing any perjury but not true for perjurors who are Judges, Witnesses or Attorneys, Doctor ALL caught with evidence undeniable and NO JUDGE CALLS FOR A FELONY

INVESTIGATION hiding the 'dirty little secret' that Judges, Attorneys are ABOVE THE LAW along with clients.

14. APPELLANTS BEGGED FOR IMMUNITY FOR THESE FELONS AND ONLY REQUESTED AN EVIDENTIARY HEARING AND "WIN" FOR APPELLANTS AFTER JURY HEARD LIES AND BAUMANN WOULD NOT LET RECORDS BE USED TO IMPEACH LIARS, NOR REPORT PERJURY TO AUTHORITIES.

15. Appellants submit having brought verifiable evidence in both State and Federal cases wherein they were denied the power of Article VI Clause 3 and Sections 3 and 4, Fourteenth Amendment, Constitution for the United States of America and Article II, Section 4, Constitution for the State of Florida and have no recourse or remedy available.

16. For this Court to hold as decided 'sua sponte' the entire appeal filed by Appellants is 'Frivolous thus denied' this act becomes aiding and abetting the Felony reported thus treason addressed in Section 20 Article 1, Constitution for the State of Florida; Section 3, Article III; and Section 3 and 4, Constitution for the United States of America.

17. There is, on the date of this motion, believed a debt established under power of Section 4, Fourteenth Amendment against the Treasury of the United States of America in the amount of one thousand dollars in United States currency from the date of the 'sua sponte' decisions dismissing this appeal until the treason imposed upon the Appellants Bundy and Whitley has been suppressed absolutely.

18. This Court of Appeal was provided with proof positive of Civil Rights Violations and Felony Law PERJURY involving Federal and State judges, BAR members and others who are subject like this Court to the Laws of the United States and investigation LONG ARM of the FBI, U.S. Marshal and others and two senior citizens have exposed the undeniable facts that Judges and BAR members have been violating FELONY AND CIVIL RIGHTS LAWS under claims of having Absolute Judicial Immunity which does not exist when any true Judge looses jurisdiction from fraud, felony acts or misconduct and to protect lower judges all the way to the 11TH United States Court of Appeal must not stand without a full criminal investigation.

19. Previously the Court heard Oral Arguments with one Appellant [Whitley] in Case 84-3234 which easily reversed a Federal Judge Elizabeth Kovachevich who finally heard the Truth and issued a scathing Order calling for the State Attorney [E.J. Salcines] to conduct a perjury investigation which never happened. Odd that this case is similar with no action.

20. Appellants are public officers under Florida Law as NOTARY PUBLICS with a duty and obligation to report any felony and call for full criminal investigation and both object strongly to the failure of this Court along with other judges to ignore the duty to report to ALL proper authorities the crime reported and demand full investigation and arrest of those reported as high up as the President of the U.S..

21. Appellants clearly refer the Court to the "RED BUTTON" of granting, with permission of the United States Attorney and President of the United States ONE TIME OFFER OF FULL IMMUNITY FROM CRIMINAL PROSECUTION FOR ALL APPELLEE SUSPECTS then

holding evidentiary hearings or Oral Argument presentations to ferret out the TRUTH before making further comments or findings. [See Exhibit A and B attached hereto] [Thirteenth Judicial Circuit Court/County Court case filings sworn under Oath plus Transcripts are undeniable PROOF POSITIVE of Felony Perjury and failure to reply to such allegations by any counsel clearly indicates any BAR member involvement at concealing such FELONY ACTS which now involves all attorneys and clients in additional charges involving aiding and abetting such perjury.]

22. Appellants submit IMMUNITY OFFER must be made and accepted timely to protect one from criminal investigation and charges and any attorney concealing felony conduct or filing documents denying same could be facing more MAIL FRAUD charges under Federal Law and State Law with no absolute judicial immunity by law. [FBI Polygraph will confirm felony perjury]

23. Appellants submit the POLYGRAPH BY FBI will prove perjury/aiding and abetting involving Appellees and their BAR member attorneys plus State Judges reported for felony conduct.

24. Appellants submit it would appear, by filings received, that the case on Appeal or questions were supposed to be made to the Supreme Court of The United States and possibly sent IN ERROR to the present Court for resolution and decisions involving claims that NO JUDGES WERE QUALIFIED IN FLORIDA BY CONSTITUION OR LAW thus Appellants had no relief or remedy PLUS felony acts and actions MUST BE INVESTIGATED AND DEALT WITH BY LAW ENFORCEMENT WHICH IS EXECUTIVE BRANCH.

25. Courts who do not recognize felony conduct of judges or BAR members nor take any action reporting such felony conduct keep the 'dirty little secret' kept for years by the Catholic Church and felony conduct of FELON PRIESTS who abused children and adults.

26. WHEN WILL EACH FEDERAL JUDGE HONOR THAT OATH TAKEN AS A JUDGE APPOINTED BY THE PRESIDENT AND CONFIRMED BY LEGISLATVE BRANCH AND END THESE FELONY ACTS AND ACTIONS KEPT HIDDEN AT ALL COSTS?

Wherefore, the Court is formally advised and notified of their malicious, deliberate and willful action to impose the treason reported to it upon the Appellants Bundy and Whitley without any recourse but to again send another letter to notify the President of the United States of America by certified United States Mail, postage prepaid, pursuant to Laws State and Federal plus Title 18 U.S.C. Section 2382 of the insurgency now active and to do so on the date this motion is mailed.

WHEREFORE Appellants MOVE for reconsideration and demand this Court call for a full criminal investigation into these claims by the FBI, U.S. Attorneys and United States Marshal Service immediately with IMMUNITY OFFER AVAILABLE OPTION.

WHEREFORE THE APPELLANTS SIGN THIS 12TH DAY OF APRIL, 2006 UNDER PENALTY OF PERJURY PURSUANT TO TITLE 28 U.S. CODE § 1746 UNDER THE LAWS OF THE UNITED STATES AND STATE OF FLORIDA THAT THE FACTS CONTAINED HEREIN ARE TRUE AND CORRECT.

/SS/
Ruth D. Bundy

/SS/
Ralph Charles Whitley, Sr.

CERTIFICATE OF SERVICE

It is certified that the foregoing MOTION has been mailed with Exhibits A&B this 12TH day of April, 2006 first class to:

1) Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_robles@oag.state.fl.us

2) Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3) Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

4) Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

5) Attorney Bob Cusmano, General Counsel and Secretary, ACE Limited c/o ACE USA, 5100 West Lemon Street, Suite 207, Tampa, Florida 33609. Phone 813-281-1400 Fax: 813-281-1398 E-MAIL: info@ace-ina.com

6) President George W. Busch and Vice President Richard Cheney, The White House, 1600 Pennsylvania Avenue NW, Washington DC 20500.

7) Governor John Ellis Busch, Governor of Florida, The Capitol, 400 South Monroe Street, Tallahassee, FL 32399

8) Sheriff David Gee, 2008n East 8TH Avenue, Tampa, Florida 33605

Signed this 12th day of April, 2006

/SS/	/SS/
Ruth D. Bundy	Ralph Charles Whitley, Sr.
Appellant, Witness, Victim	Appellant, Witness, Victim
4503 W. North A Street	4532 W. Kennedy Blvd.
Tampa, Florida 33600- 2028	PMB 276
Phone: (813) 286-2333	Tampa, Florida 33609-2024
Fax: (813) 636-4022	Phone: (813) 286-7783
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E-MAIL:	E-MAIL:
backflow.prevention@verizon.net	fuelzonerep@aol.com

APPENDIX L

Appellants' Challenge of the Authority of Two Signers of Court Decisions March 28, 2006 and May 02, 2006 to Hold Office as Federal Judges In This Case, Dated May 8, 2006 and Filed May 17, 2006.

UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

Ruth D. Bundy and Ralph Charles Whitley, Sr.
Appellants,

v.

JAMES H BOARD, Randall Odo Reder, John Wilkins Day, Herbert John Baumann, Jr., in his official capacity, SUPREME COURT OF FLORIDA, DISTRICT COURT OF APPEALS, SECOND DISTRICT OF FLORIDA, Bruce Welch M.D., COLGI, INC, a Florida Corporation for profit, and Steve Martin, Appellees.

AN APPEAL FOR REVIEW OF THE COURSE OF CONDUCT OF: STEVEN D. MERRYDAY, DJ, UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF FLORIDA, TAMPA DIVISION

APPELLANTS' CHALLENGE THE AUTHORITY OF TWO SIGNERS OF COURT DECISIONS MARCH 28, 2006 AND MAY 02, 2006 TO HOLD OFFICE AS FEDERAL JUDGES IN THIS CASE

Ruth D. Bundy Appellant, Witness, Victim 4503 W. North A Street Tampa, Florida 33600- 2028 Phone: (813)286-2333

Ralph Charles Whitley, Sr. Appellant, Witness, Victim 4532 W. Kennedy Blvd. PMB 276 Tampa, Florida 33609-2024 Phone: : (813)417- 8 74 7

CERTIFICATE OF INTERESTED PERSONS AND CORPORATE DISCLOSURE STATEMENT

Neither Appellant Ruth D. Bundy, nor Appellant Ralph Charles Whitley, Sr. participated in any corporate organizations. The People of the State of Florida, American Civil Liberties Union as well as NAACP ought to have an interest in the outcome of this appeal.

1. Defendant Herbert John Baumann, Jr. represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_robles@oag.state.fl.us

2. Defendant JAMES H. BOARD represented by Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

3. Plaintiff Ruth D. Bundy, In Proper Person, 4503 W. North A St. Tampa, FL 33609-2028 Phone: 813/286-7783 Fax: 813/636-4022 Email: backflow.prevention@verizon.net

4. Defendant COLGI, INC. represented by Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: bequi@cabaniss.net

5. Defendant John Wilkins. Day represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabav.rr.com

6. Defendant Randall Odo Reder represented by Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612 813/960-1952 Fax: 813/265-0940 Email: reder@redersdigest.com

7. Defendant Second District Court of Appeal represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_ Robles@oag.state.fl.us

Members of the Second District Court of Appeal of Florida
Judge Chris W. Alterbernd
Clerk James Birkhold
Judge Charles T. Canady
Judge Darryl C. Casanueva
Judge Charles A. Davis
Chief Judge Carolyn K. Fulmer
Judge Patricia J. Kelly
Judge Edward LaRose
Judge Steven D. Northcutt
Judge E.J. Salcines
Judge Morris Silberman
Judge Thomas E. Stgringer, Sr.
Judge Craig C. Villanti
Judge Douglas A. Wallace
Judge James W. Whatley

8. Defendant Supreme Court of Florida represented by Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe_Robles@oag.state.fl.us

Members of the Supreme Court of Florida
Justice Henry Lee Anstead
Justice Kenneth B. Bell
Justice Raoul G. Cantero, III
Clerk Thomas D. Hall
Justice R. Fred Lewis
Chief Justice Barbara J. Pariente
Justice Peggy A. Quince
Justice Charles T. Wells

9. Defendant Bruce Welch, M.D. represented by represented by Attorney John W. Day Law Office of John W. Day 535 Central Ave. St. Petersburg, FL 33701 Phone: 727/822-4460 Fax: 727/823-6189 Email: dayincourt@tampabay.rr.com

10. Plaintiff Ralph Charles Whitley, Sr. In Proper Person, 4532 W. Kennedy Blvd. PMB 276 Tampa, FL 33609-2042 813/286-7783 Fax: 813/286-7783 Email: fuelzonerep@aol.com

STATEMENT REGARDING ORAL ARGUMENTS

Appellants Ruth D. Bundy and Ralph Charles Whitley, Sr. desire to participate in oral arguments pursuant to Federal Rules of Appellate Procedure Rule 34 and 11TH Cir. R. 34 because of a compelling interest in the outcome involving anyone filing anything with the Supreme Court of Florida or a District Court of Appeal.

APPELLANTS' CHALLENGE TO AUTHORITY OF TWO SIGNERS OF COURT DECISIONS MARCH 28, 2006 AND MAY 2, 2006 TO HOLD OFFICE AS FEDERAL JUDGES IN THIS SPECIFIC CASE

COME NOW the Appellants, to challenge of 11TH USCA Judges `TJOFLAT AND BLACK' to hold office as federal public officers issuing two specific Orders on March 28, 2006 and May 2, 2006 relative to this Case on the following grounds:

1. Both Judges TJOFLAT and BLACK deceived the President of the United States of America during the nominating process, the United States Senate in the confirmation process, and again the President during the appointment to office process by honoring an unconstitutional state statute in open denial of the power of Section 5, Article II, Constitution of Florida which was included in the Florida Constitution in direct obedience to Article VI, Clause 3, Constitution for the United States of America.

2. After having deceived the aforementioned, Judges TJOFLAT and BLACK took an oath to defend the constitution and laws of the United States pursuant to 5 U.S.C. Section 3331 which was the exactly same as a false swearing in that they both deceived the

government to acquire a public office and then took a oath to defend that deception.

3. Judges TJOFLAT and BLACK were both attorneys authorized to practice law in Florida which excluded all other Floridians who did not attend schools whose curriculums were not approved by the American Bar Association. Thus when Judges TJOFLAT and BLACK appeared in Florida courts of law under court rules approved by those not-excluded from the practice of law in Florida, they held those who entered said state courts while representing themselves under conditions of involuntary servitude thereby denying - those not convicted of crimes - the power of the Thirteenth Amendments and elements of the Florida Constitution.

4. The above was the substance of the Appellants' case before the Court of Appeals and the decisions rendered March 28, 2006 and May 2, 2006 by the above named Judges TJOFLAT and BLACK gave effect to the deceptions described herein.

5. In that Appellants are not attorneys schooled in the Law or Rules of Court it is requested, due to the nature of this Case and actions taken by questionable Florida Judges now 11th USCA Appeal Panel Judges, the Federal Rules of Appellate Procedure Rules such as Rule 35 should be allowed as the decision or proceedings involves a question of exceptional importance that ONLY non Florida appointees can resolve and clearly this specific case of ALL FLORIDA JUDGES being `imposters for falsely swearing their Oath and file same without a Surety Bond' is in itself an extraordinary deception which must be cleared up immediately "Sua Sponte under Rule 35 by the Entire 11T1 USCA barring further

FORMER FLORIDA JUDGES from review of anything to do with this particular case".

6. Appellants provided REQUEST FOR JUDICIAL NOTICE of the specific Florida Judges assigned who could not possibly qualify to sit on the PANEL OF THREE judges and were shocked that TWO judges of the three judge panel were former Florida Judges.

Wherefore, TWO ORDERS OR DECISIONS provided by this Court containing Judge TJOFLAT or Judge BLACK are null, void, and without legal effect at their signing. Further, the decisions of this Court in the instant case are void absolutely. Still further, Appellants demand that any judge of this Court who has not deceived the United States Government to acquire federal public office acquire a surety bond pursuant to 31 U.S.C. section 9304 payable to the United States treasury in the amount of controversy before any future decisions in the instant case is rendered.

CERTIFICATE OF SERVICE

It is certified that service of the foregoing has been made on this 8TH day of April, 2006 by mailing first class in envelopes provided addressed as:

A. Attorney Joseph A. Robles Attorney General's Office 501 E. Kennedy Blvd., Suite 1100 Tampa, FL 33602-5242 Phone: 813/233-2880 Fax: 813/233-2886 Email: Joe robles@oag.state.fl.us

B. Attorney Brian D. Equi P.O. Box 4924, Maitland, FL 32802-4924 Phone:407/246-1800 Fax: 407/246-1895 Email: becqui@cabaniss.net

C. Attorney John W. Day Law Office of John W. Day
535 Central Ave. St. Petersburg, FL 33701
Phone: 727/822-4460 Fax: 727/823-6189
Email: dayincourt@tampabay.rr.com

D. Attorney Randall O. Reder Law Office of Randall O. Reder, P.A. 1319 W. Fletcher Ave Tampa, FL 33612
813/960-1952 Fax: 813/265-0940
Email: reder@redersdigest.com

Signed this 8TH day of May, 2006 at 11:41 p.m. in Hillsborough County, Florida by:

/SS/

Ruth D. Bundy
Appellant, Witness, Victim
4503 W. North A Street
Tampa, Florida 33600- 2028
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/SS/

Ralph Charles Whitley, Sr.
Appellant, Witness, Victim
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Phone: (813) 286-7783
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E-MAIL: fuelzonerep@aol.com

APPENDIX M

Plaintiffs' Notice of Appeal, Dated October 21, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Tampa Division

Ruth D. Bundy;
Ralph Charles Whitley, Sr.;
Plaintiffs,

Vs.

NOTICE OF APPEAL
Case No.: 8:04-CV-1439-T-23TBM
(L.T. Case SC04-480
Florida Supreme Court
L.T. Case 2D 02-05449Florida
DCA 2ND
L.T. Case 98-8569 Div I
13TH Judicial Circuit
L.T. Case 97-10682 CC
13TH Judicial Circuit
L.T. Case 93-11695 CC
13TH Judicial Circuit)

James H. Board;
Randall Odo Reder;
John Wilkins Day;
Judge Herbert John Baumann, Jr., in his official capacity;
Supreme Court of Florida;
District Court of Appeal Second District of Florida;
Bruce Welch, M.D.;
COLGI, INC., a Florida Corporation for Profit;
Steve Martin;
Defendants.

PLAINTIFFS' NOTICE OF APPEAL

COME NOW Plaintiffs, Ruth D. Bundy ("Bundy"), Ralph Charles Whitley, Sr. ("Whitley"), non attorneys, victims, witnesses, and hereby APPEAL to the United States Court of Appeals for the ELEVENTH CIRCUIT the Order entered in this action as indicated below:

1) **Order [Document 90] filed 09/20/2005 indicating "This action DISMISSED WITH PREJUDICE. The Clerk is directed to (1) terminate any pending motion and (2) close the case." (Exhibit A attached hereto and fully incorporated herein) [1]**
2) **Order [Document 94-1] filed 10/11/2005 indicating "The court dismissed this case with prejudice (Doc. 90) on September 20, 2005. The pro se plaintiffs' motions for reconsideration (Docs. 91, 92., 93 are DENIED." (Exhibit B attached hereto and fully incorporated herein)**
3) **Order [Document 26] filed on August 25, 2004 (Exhibit C attached hereto and fully incorporated herein)**

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing will be deposited with the United States Post Office for Attorneys: Joseph A. Robles, Assistant Attorney General; Attorney John Wilkins Day, Attorney Randall Odo Reder; Attorney Brian Equi at their normal addresses filed with this Court in a timely manner.

Executed on this 21ST day of October, 2005

/SS/	/SS/
Ruth D. Bundy	**Ralph Charles Whitley, Sr.**
Petitioner, Witness, Victim	**Petitioner, Witness, Victim**
4503 W. North A Street	**4532 W. Kennedy Blvd.**
Tampa, Florida 33609-2028	**PMB 276**
Phone: (813) 286-2333	**Phone: (813) 417-8747**

JOINT FAX: (813) 636-4022

EXHIBIT A (Order of the United States District Court, Middle District of Florida, Tampa Division, Dated September 20, 2005) is the same as that printed heretofore at pages 3a-6a.

EXHIBIT B (Order of the United States District Court, Middle District of Florida, Tampa Division, Dated October 10, 2005) is the same as that printed heretofore at Page 11a.

EXHIBIT C (Order of the United States District Court, Middle District of Florida, Tampa Division, Dated August 25, 2004) is the same as that printed heretofore at Pages 7a-9a.

APPENDIX N

Plaintiffs' Notice and Motion for Reconsideration, Dated October 3, 2005 and Filed October 4, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Tampa Division

Ruth D. Bundy;
Ralph Charles Whitley, Sr.;
Plaintiffs,

AS FILED
OCT 04, 2005

Vs.

James H. Board;
Randall Odo Reder;
John Wilkins Day;
Judge Herbert John Baumann, Jr., in his official capacity;
Supreme Court of Florida;
District Court of Appeal Second District of Florida;
Bruce Welch, M.D.;
COLGI, INC., a Florida Corporation for Profit;
Steve Martin;
Defendants.

Case No: 8:04-CV-1439-T-23TBM
(L.T. Case SC04-480 Florida Supreme Court
L.T. Case 2D 02-5449 Florida DCA 2ND
L.T. Case 98-8569 Div I 13TH Judicial Circuit
L.T. Case 97-10682 CC 13TH Judicial Circuit
L.T. Case 93-11695 CC 13TH Judicial Circuit)

PLAINTIFFS' NOTICE AND MOTION FOR RECONSIDERATION

COME NOW Plaintiffs, Ruth D. Bundy ("Bundy"), Ralph Charles Whitley, Sr. ("Whitley"), non attorneys, victims, witnesses, pursuant to Local Rule 3.01, Fed.R.Civ.P. Rule 60 providing NOTICE and Motion for Reconsideration and in support would submit:

1. **Plaintiffs received an ORDER of this Court [Doc. 26] dated August 25, 2004 and find it necessary to PRAY for relief under the Rules.**

2. **Plaintiffs provided NOTICE OF FELONY ACTS to the Court as required under Title 18 USC § 4 and other statutes/codes/titles so relevant in submitting not only the Complaint and Exhibits but especially this Court indicated STRICKEN for failure to comply with Local Rule 3.01(c) and no action was taken by this Court as a Jurist NOR was the information apparently relayed to Federal Law Enforcement Authorities thus aiding and abetting a FELONY REPORTED under Title 18 and other statutes/codes/laws so relevant.**

3. **Plaintiffs submitted a SUGGESTION of recusal involving especially this Jurist [Doc. 13] indicating "Because the plaintiffs raise no reason that warrants my recusal from this matter, the plaintiffs' motion for my recusal (Doc. 13) is DENIED. See 28 U.S.C. § 455."**

4. Plaintiffs took the liberty to review 28 U.S.C § 455 as well as revisited Title 18 U.S.C. § 4 and other sections of Criminal Code noting especially "Title U.S.C. § 455, Disqualification of justice, judge or magistrate judge (a) Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned. (b) He shall also disqualify himself in the following circumstances: (1) Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;" and such suggestion was in line with the previous experience between Plaintiff Whitley and this Court where the Court was reported to higher Courts for perceived acts or actions depriving a non attorney of having the case properly heard on PERJURY issues.

5. Plaintiffs filed a joint Motion/Request for immediate production of BOND for all judiciary defendants [Doc. 15] THUS CHALLENGING THE JURISDICTION OF THOSE DEFENDANTS TO EVEN ACT OR HEAR ANY CASE and the ORDER denied Plaintiffs of the right to CHALLENGE JURISDICTION of the jurists which is guaranteed a problem under the Constitution and Statutory Laws of Florida as NO JURIST defendant seems to have the proper Bond or Oath filed.

6. **Plaintiffs and this Court are fully aware of FRAUD UPON THE COURT as stated in Bulloch v. United, 763 F.2d 1115 and such was reported clearly to this Court in the Case filings and exhibits submitted with DISCOVERY ONGOING with Plaintiffs providing requests for admission and other discovery was started BY WRITTEN AGREEMENT [Doc. 63] to this very date which has not been completed or responded to by those who seek dismissal for "Absolute Judicial Immunity" arguments which DO NOT APPLY when jurists LACK JURISDICTION OR LOOSE JURISDICTION.**

7. **The Court is fully aware as are all attorneys involved that "Court of Law Not Competent to Administer Justice: An honorable court of law empowered to administer justice whose assigned members discharge the duties of office but are not in compliance with constitutional and statutory mandates necessary and proper to hold office; a condition such as not being covered by surety bonds or an oath of office and thereby not being bound by an oath of office as required by Article VI, Clause 3, Constitution for the United States of America." Does allow any PARTY to challenge the judges on jurisdiction issues and even THIS COURT must provide the surety bonds or Oath of office or this very Court does not have jurisdiction.**

8. **The Court and all attorneys are fully aware that: "Rooker-Feldman Doctrine" A judicial decision requiring federal courts to respect the integrity of state court judicial proceedings. This doctrine is operative only when state court proceedings under consideration occur in courts of law that are competent. State courts of law not competent have no constitutional mandate or statutory authority. See Rooker-Feldman Doctrine established in D.C. Court of Appeals V. Feldman, 460 U.S. 462, 476, 482 (1983) and Rooker V. Fidelity Trust Co., 263 U.S. 413, 415, 416 (1932), accordingly the ERROR involves this Court NOT allowing the Defendants to produce or DENY existence of surety bonds and Oaths properly filed under Florida Law and Constitution.**

9. **Plaintiffs submit the Court must be fully aware that the State of Florida is one of SIX states presently as defendants in a filing known as: CASE NUMBER 05-5288 UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA WINFRED P. ADAMS, MAJOR, USAF, Retired Appellant, v. PERSONS UNLAWFULLY HOLDING THE OFFICES OF SECRETARY OF STATE, IN THE GOGERNMENTS AND STATES OF NEW MEXICO, COLORADO, WISCONSIX, FLORIDA, TEXAS, AND MISSOURI, and the UNITED STATES, as the Agent of the American People. Appellees which reflects clearly the arguments and request for PRODUCTION OF SURETY BONDS AND OATHS from each defendant as in this Case.**

10. **Plaintiffs submit in this Case no Defendant has replied or has sent any Surety Bond or Oath information and this Court DENIED a proper MOTION filed to produce same thus silence confirms the fact that Attempts by various non-attorney American citizens to provide such state records to this very district court has been summarily rebuffed by the imposter judge defendants by and through attorneys assigned duties with the Office of the State of Florida Attorney General, which summarily and efficaciously aided and abetted in hiding the TRUTH OF FRAUD UPON THE COURT**

11. **Plaintiffs again submit that this Court refuses to exercise the authority provided by 18 U.S.C. §2382, 42 U.S.C. §1986, other statutes/laws/codes/titles/ Constitutions, so relevant, Sections 3 and 4, Fourteenth Amendment, and Rule 4(n), Federal Rules of Civil Procedure to determine the veracity of the Plaintiffs' verified Complaint and demand for jury trial OR the Motion as submitted and denied the proper Motion to Produce without any opposing information from any source whatsoever derived from any Defendant or the legal counsel for each defendant and the bias and prejudice is clearly illustrated as DISCOVERY WAS ONGOING IMMEDIATELY AFTER THE CASE MANAGEMENT CONFERENCE REPORT WAS SIGNED BY ALL PARTIES [DOC. 63] AND THEIR REPRESENTATIVES AND APPROVED BY THIS COURT.**

12. **Plaintiffs remind the court that: "Article VI, Clause 3, Constitution for the United States of America states: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, *shall be bound by Oath* or Affirmation, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. [Emphasis added.]**

13. **Plaintiffs further submit: "The phrase "shall be bound by oath" is taken to mean exactly as it is meant in Sections 4 and 5, The Coinage Act of 1792, (*Appendix 3, page 31); to wit: Section 4. *And it be further enacted*, That every officer and clerk of said mint shall, before he enters upon the execution of his office, take an oath or affirmation before some judge of the United States faithfully and diligently to perform the duties thereof. Section 5. *And be it further enacted*, That the said assayer, chief coiner and treasurer, previously to entering upon the execution of their respective offices, shall become bound to the United States of America, with one or more sureties to the satisfaction of the Secretary of the Treasury, in the sum of ten thousand dollars, with condition for the faithful and diligent performance of duties of his office. Note: This provision of the Constitution for the United States of America is binding on all state public officers for which the defendants and State of Florida must maintain records and do so for public scrutiny." Such is DENIED by the Order without rime or reason as the Request is indeed VALID under the**

Constitution and Laws of Florida. IF THER IS NO SURETY BOND AND NO OATH FILED then the Jurists LACKED JURISDICTION WHICH WAS THE CHALLENGE REQUESTING PRODUCTION!

14. **Plaintiffs submit the documents requested for production are common to the like constitutional provisions for other state public officers records required to be maintained in all defendants' official records and must be produced when demanded to prove jurisdiction to sit at the bench over any trial or proceedings under discovery Rules in the Federal Rules of Civil Procedure and Federal Rules of Evidence.**

15. **Plaintiffs submit this COURT IS IN ERROR relative to stopping discovery of NON ATTORNEY LITIGANTS and further failure to be bound by an oath after having given an oath in order to discharge the duties of public office claimed perjures the oath given to support the nation's constitution and, for state office claimants, the applicable state constitution. Perjuring the oath of office at any stage of the process causes the perjurer to suffer a forfeiture of the office claimed held for failure to perfect title to that public office thus challenge to JURISDICTION AND DISCOVERY SEEKING TO CONFIRM FACTS MAY NOT BE OVERLOOKED BY ANY FAIR AND IMPARTIAL JURIST AT THE FEDERAL LEVEL.**

16. **Plaintiffs submit the Case in DC reflects clearly that none of the public officers in States of New Mexico, Colorado, Wisconsin, Missouri, Texas, and Florida are covered by valid individual surety bonds on record in the defendants Offices of Secretary of State and payable to the applicable named state for failure to faithfully perform the duties of office and no writes of quo warranto are available to any citizen in any one of them in either state or federal courts of law.**

17. **Reportedly in New Medico, Treasurers both current and former have been arrested on charges of participating in bribery schemes; they were not covered with surety bonds and could not participate in meaningful was to call the bonds of any other wayward and unbonded public office claimant. [See DC Case cited.]**

18. **Plaintiffs submit under the Substantial Evidence Test that NO ONE HOLDS OFFICE where records are maintained for failure to acquire approved individual surety bonds coverage payable to the applicable state for faithful and diligent performance of office duties and thereby those would be failing to perfect title to the office claimed and ANY JURIST without those required Oaths and Surety Bonds failed to perfect title to the OFFICE OF JUDGE and thus lost jurisdiction as a matter of LAW under statutes/codes/titles/laws so relevant.**

19. **Plaintiffs submit that the Attorneys, fellow BAR members of the defendant jurists and Attorneys/Defendants charged herein ALSO have a duty to report FRAUD U)ON THE COURT AS WELL AS KNOWN CRIMINAL ACTS INVOLVING RECORDED/PROVABLE PERJURY, and such may not be ignored by this or any Court under the Constitution and Laws of the United States and State of Florida and further, attorneys are required to notify the Court of such perjury immediately as well as notify law enforcement authorities who MUST commence a full investigation into same felony reported.**

20. **PLAINTIFFS ARE FULLY AWARE THAT ANY REPORT OF CRIMINAL ACTS INVOLVING PERJURY OR FRAUD UPON THE COURT, IF FOUND BASELESS COULD RESULT IN ARREST BY THE COURT OF THE PLAINTIFFS FOR CONTEMPT OR RESULT IN CHARGES BY ANY PUBLIC SERVANT INCLUDING THE POLICE FOR FILING A FALSE CRIME REPORT.**

21. **Plaintiffs submit the information submitted herein is a NOTICE to the Court and all opposing counsels who will no doubt be given ample time to respond with any objections or comments to this Court as is usual and customary for trial cases filed by anyone.**

22. **Plaintiffs are in the process of filing additional NOTICES AND MOTIONS FOR RECONDISERATION following receipt of the latest Order of this Court dated 20 September 2005 and sent by mail.**

WHEREFORE Plaintiffs respectfully provide Notice and Motion for Reconsideration to one Order of this Court as stated herein and PRAY for relief proper and just.

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing will be deposited with the United States Post Office for Attorneys: Joseph -A. Robles, Assistant Attorney General; Attorney John Wilkins Day, Attorney Randall Odo Reder; Attorney Brian Equi at their normal addresses filed with this Court in a timely manner.

Executed this 3rd day of October, 2005

/SS/	/SS/
Ruth D. Bundy	**Ralph Charles Whitley, Sr.**
Petitioner, Witness, Victim	**Petitioner, Witness, Victim**
4503 W. North A Street	**4532 W. Kennedy Blvd.**
Tampa, Florida 33609-2028	**PMB-276**
	Tampa, Florida 33609-2042
Phone: (813) 286-2333	**Phone: (813) 417-8747**

JOINT FAX: (813) 636-4022

APPENDIX O

Plaintiffs' Second Notice and Motion for Reconsideration Involving Order [Doc. 91], Dated October 3, 2005 and Filed October 4, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Tampa Division

Ruth D. Bundy;
Ralph Charles Whitley, Sr.;
Plaintiffs,

Vs.

James H. Board;
Randall Odo Reder;
John Wilkins Day;
Judge Herbert John Baumann, Jr., in his official capacity;
Supreme Court of Florida;
District Court of Appeal Second District of Florida;
Bruce Welch, M.D.;
COLGI, INC., a Florida Corporation for Profit;
Steve Martin;
Defendants.

Case No: 8:04-CV-1439-T-23TBM
(L.T. Case SC04-480 Florida Supreme Court L.T. Case 2D 02-5449 Florida DCA 2ND L.T. Case 98-8569 Div I 13TH Judicial Circuit L.T. Case 97-10682 CC 13TH Judicial Circuit L.T. Case 93-11695 CC 13TH Judicial Circuit)

PLAINTIFFS' SECOND NOTICE AND MOTION FOR RECONSIDERATION INVOLVING ORDER [DOC. 90]

COME NOW Plaintiffs, Ruth D. Bundy ("Bundy"), Ralph Charles Whitley, Sr. ("Whitley"), non attorneys, victims, witnesses, pursuant to Local Rule 3.01, Fed.R.Civ.P. Rule 60 providing NOTICE and Motion for Reconsideration involving Order [Doc. 26]and in support would submit:

1. **Plaintiffs received an ORDER of this Court [Doc. 90] dated September 20, 2005 via U.S. Mail.**

2. **Plaintiffs provided NOTICE OF FELONY ACTS to the Court as required under Title 18 USC § 4 and other statutes so relevant in submitting Responses to Motions to dismiss [Docs. 10 & 11] and clearly the Court was aware of ongoing Discovery following receipt of the Case Management Report SIGNED BY ALL PARTIES OR COUNSEL agreeing to DISCOVERY then once Requests for Admissions were submitted to Judicial Defendants, the Attorney for the State of Florida moves for protective Orders CLAIMING ABSOLUTE JUDICIAL IMMUNITY which does not exist in this case as the Defendants actions were when they lacked jurisdiction.**

3. **Plaintiffs submitted PROOF POSITIVE that the Jurists of the Supreme Court of Florida NEVER SAW OR RULED BY QUORUM OR OTHERWISE on the Case sent to the Court. Denial was by an Internal Operating Procedure where the CLERK denied the case and indicated NO REHEARING was to happen. Such violation of the Constitution of Florida and Laws of Florida should result in an action requested under "INJUNCTIVE OR DECLARATORY RELIEF" when these judges ignore their Oath, have no surety bonds and Oaths on file PLUS destroy filings of some 30,000 people by use of a PCA without written opinion from**

District Courts of Appeal and the cases were filed by NON ATTORNEY LITIGANTS.

4. **The Court had proof positive that Judge Herbert John Baumann, Jr. in the 13TH Judicial Circuit had his SPOUSE as a material witness, stated he would recuse himself IF his wife's name was mentioned and then when the DEFENSE TEAM presented the star perjurer Dr. Bruce Welch, MD who IDENTIFIED SHELLY P. BAUMANN and stated falsely the jurists WIFE had sent him a written document AGREEING WITH THE DOCTOR which was known to be a lie under Oath, the jurist did nothing.**

5. **The Court had proof positive that Judge Herbert John Baumann, Jr. FAILED TO FOLLOW THE CANONS, RULES OF COURT AS WELL AS OTHER STATUTES/TITLES/LAWS SO RELEVANT and yet for some reason LACK OF JURISDICTION prevented a full trial, prevented witnesses from testifying, prevented COURT RECORDS IN THE COURTROOM DURING TRIAL to be used to impeach defendants who openly committed perjury before the jury, prevented a VERDICT FROM A JURY ON SEVERAL DEFENDANTS then falsified the Official Records indicating the JURY returned a verdict for ALL DEFENDANTS which is a lie and fraud upon the Court.**

6. **Plaintiffs WERE IN DISCOVERY and submitted Requests for Admissions [See attached Exhibits A-I] which were BLOCKED by Motions claiming absolute judicial immunity which stopped the case in it's tracks and allowed the Court to IGNORE DISCOVERY WAS ONGOING AND REQUESTS**

FOR INTERROGATORIES AND ADMISSIOINS WERE NOT ANSWERED but the Attorney General representative defending the Jurists CLAIMED ABSOLUTE IMMUNITY AND NO DISCOVERY COULD BE HAD UNTIL THE COURT RESOLVED THE ISSUE OF ABSOLUTE IMMUNITY which in this case is NULL AND VOID!

7. Plaintiffs submit clearly the Court DISMISSED THE ENTIRE CASE WITH PREJUDICE claiming that the senior citizen Plaintiffs ARE NOT BLACK thus Title 42 U.S. § 1983, other statutes so relevant and other cited Constitutions/Laws/Codes were not applicable for VIOLATION OF CIVIL RIGHTS which is false as a matter of law as the Titles are specific and NOT RACIAL PROTECTION FOR ONE CLASS OVER ANOTHER.

8. The Court added insult to injury quoting several Cases in the Order which do not apply and thus fail to trump the RULE OF LAW, OTHER STATUTES SO RELEVANT AND CONSTITUTION protections afforded Ruth D. Bundy and Ralph Charles Whitley, Sr.

9. The COURT instructed the CLERK to CLOSE THE CASE AND TERMINATE PENDING MOTIONS WHICH IS AGAINST THE FEDERAL RULES OF CIVIL PROCEDURE AND LAWS OF THIS NATION thus the bias and prejudice is clearly shown by this Jurist who actually believes that any Judge or Attorney or Witness has ABSOLUTE JUDICIAL IMMUNITY even if they have lost jurisdiction or lack jurisdiction OR commit a criminal act easily verifiable.

10. **Plaintiffs HAVE A RIGHT TO COMPETE DISCOVERY WHEN THE CASE MANAGEMENT REPORT IS SIGNED AND VERIFIED OR ACCEPTED BY THE COURT except perhaps when the Court is hung up on the WRONG CASE LAW granting ABSOLUTE JUDICIAL IMMUNITY TO JURISTS AND ATTORNEYS WHO COMMIT CRIMES AND VIOLATE KNOWN CITED SECTIONS OF THE UNITED STATES CODES SUCH AS TITLE 28 USC §§ , TITLE 42 USC §§, TITLE 18 USC §§ CLEARLY INDICATED IN THE LENGHTY YET INFORMATIVE VERIFIED COMPLAINT AND DEMAND FOR JURY TRIAL SUBMITTED.**

11. **Plaintiffs clearly stated a cause of action under known Titles or Codes and as American Citizens white or otherwise, the Case demanded a JURY TRIAL and no court may deny Plaintiffs such relief claiming that the Laws of this Nation DO NOT APPLY TO WHITE ELDERLY PEOPLE AS THEY ARE NOT A CLASS PROPERLY PROTECTED UNDER THE LAWS OF THIS NATION.**

12. **The COURT has no standing to IGNORED FRAUD UPON THE COURT OR FELONY PERJURY REPORTED UNDER THE LAWS AND CONSTITUTIONS OF THE UNITED STATES AND STATE OF FLORIDA.**

13. **The COURT has not standing as a MEMBER OF THE FLORIDA BAR to ignore the Rules of Court, Laws or Constitutions for Florida and United States or Rules of Evidence applicable.**

14. **Plaintiffs DEMAND that this Court NOW provide the same CREDENTIALS OF OATH AND SURETY BOND which was mentioned and BLOCKED BY THIS COURT FOR OTHER JURISTS WHO MUST PRODUCE SAME TO CLAIM JURISDICTION AND RIGHT TO OFFICE.**

15. **FRAUD UPON THE COURT NOW REFLECTS DIRECTLY UPON THIS COURT AND IT'S ORDER THROWING OUT THE ENTIRE CASE WITHOUT LEAVE TO AMEND!**

16. **Plaintiffs submitted a SUGGESTION of recusal involving especially this Jurist [Doc. 13] indicating "Because the plaintiffs raise no reason that warrants my recusal from this matter, the plaintiffs' motion for my recusal (Doc. 13) is DENIED. See 28 U.S.C. § 455." is reinforced by the actions of this Court while discovery was ongoing.**

17. Plaintiffs took the liberty to review 28 U.S.C. § 455 as well as revisited Title 18 U.S.C. § 4 and other sections of Criminal Code noting especially "Title 28 U.S.C. § 455. Disqualification of justice, judge, or magistrate judge (a) **Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.** (b) He shall also disqualify himself in the following circumstances: (1) **Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding**;" and such suggestion was in line with the previous experience between Plaintiff Whitley and this Court where the Court was reported to

higher Courts for perceived acts or actions depriving a non attorney of having the case properly heard on PERJURY issues.

18. **Plaintiffs filed a joint Motion/Request for immediate production of BOND for all judiciary defendants [Doc 15] THUS CHALLENGING THE JURISDICTION OF THOSE DEFENDANTS TO EVEN ACT OR HEAR ANY CASE and the ORDER denied Plaintiffs of the right to CHALLENGE JURISDICTION of the jurists which is guaranteed a problem under the Constitution and Statutory Laws of Florida as NO JURIST defendant seems to have the proper Bond or Oath filed YET NOW CITES LACK OF JURISDICTION AGAINST PLAINTIFFS.**

19. **Plaintiffs and this Court are fully aware of FRAUD UPON THE COURT as stated in Bulloch v. United, 763 F.2d 1115** and such was reported clearly to this Court in the Case filings and exhibits submitted with DISCOVERY ONGOING with Plaintiffs providing requests for admission and other discovery was started BY AGREEMENT to this very date which has not been completed or responded to by those who seek dismissal for "Absolute Judicial Immunity" arguments which DO NOT APPLY when jurists LACK JURISDICTION OR LOOSE JURISDICTION.

20. The Court is fully aware as are all attorneys involved that "Court of Law Not Competent to Administer Justice: **An honorable court of law empowered to administer justice whose assigned members discharge the duties of office but are not in compliance with constitutional and statutory mandates necessary and proper to hold office; a condition such as not being covered by surety bonds**

or an oath of office and thereby not being bound by an oath of office as required by Article VI, Clause 3, Constitution for the United States of America." does allow any PARTY to challenge the judges on jurisdiction issues and even THIS COURT must provide the surety bonds or Oath of office or this very Court does not have jurisdiction.

21. **The Court and all attorneys** are fully aware that: " Rooker-Feldman Doctrine: A judicial decision requiring federal courts to respect the integrity of state court judicial proceedings. **This doctrine is operative only when state court proceedings under consideration occur in courts of law that are competent.** State courts of law not competent have no constitutional mandate or statutory authority. See **Rooker-Feldman Doctrine** established in *D.C. Court of Appeals v. Feldman*, 460 U.S. 462, 476, 482 (1983) and *Rooker v. Fidelity Trust Co.*, 263 U.S. 413, 415, 416 (1923), accordingly the ERROR involves this Court NOT allowing the Defendants to produce or DENY existence of surety bonds and Oaths properly filed under Florida Law and Constitution.

22. Plaintiffs submit the Court must be fully aware that the State of Florida is one of SIX states presently as defendants in a filing known as: CASE NUMBER 05-5288 UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA WINFRED P. ADAMS, MAJOR, USAF, Retired Appellant, v. PERSONS UNLAWFULLY HOLDING THE OFFICES OF SECRETARY OF STATE, IN THE GOVERNMENTS AND STATES OF NEW MEXICO, COLORADO, WISCONSIN, FLORIDA, TEXAS, AND MISSOURI, and the UNITED STATES, as the Agent of the American People, Appellees **which**

reflects clearly the arguments and request for PRODUCTION OF SURETY BONDS AND OATHS from each defendant as in this Case.

23. **Plaintiffs submit in this Case no Defendant has replied or has sent any Surety Bond or Oath information and this Court DENIED a proper MOTION filed to produce same thus silence confirms the fact that Attempts by various non-attorney American citizens to provide such state records to this very district court has been summarily rebuffed by the imposter judge defendants by and through attorneys assigned duties with the Office of the State of Florida Attorney General, which summarily and efficaciously aided and abetted in hiding the TRUTH OF FRAUD UPON THE COURT.**

24. **Plaintiffs again submit that this Court refuses to exercise the authority provided by 18 U.S.C. § 2382, 42 U.S.C. § 1986, Sections 3 and 4, Fourteenth Amendment, and Rule 4(n), Federal Rules of Civil Procedure to determine the veracity of the Plaintiffs' verified Complaint and demand for jury trial OR the Motion as submitted and denied the proper Motion to Produce without any opposing information from any source whatsoever derived from any Defendant or the legal counsel for each defendant and the bias and prejudice is clearly illustrated as DISCOVERY WAS ONGOING IMMEDIATELY AFTER THE CASE MANAGEMENT CONFERENCE REPORT WAS SIGNED BY ALL PARTIES AND THEIR REPRESENTATIVES AND APPROVED BY THIS COURT.**

25. **Plaintiffs remind the court that:** "Article VI, Clause 3, Constitution for the United States of America states: The Senators and Representatives before mentioned, and the Members of the several State Legislatures, and all executive and judicial Officers, both of the United States and of the several States, ***shall be bound by Oath* or Affirmation**, to support this Constitution; but no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States. [Emphasis added.]

26. Plaintiffs further submit: "The phrase "shall be bound by oath" is taken to mean exactly as it meant in Sections 4 and 5, The Coinage Act of 1792, (*Appendix 3, page 31); to wit: Section 4. *And be it further enacted*, That every officer and clerk of said mint shall, before he enters upon the execution of his office, take an oath or affirmation before some judge of the United States faithfully and diligently to perform the duties thereof. Section 5. *And be it further enacted*, That the said assayer, chief coiner and treasurer, previously to entering upon the execution of their respective offices, shall become bound to the United States of America, with one or more sureties to the satisfaction of the Secretary of the Treasury, in the sum of ten thousand dollars, with conditions for the faithful and diligent performance of duties of his office. Note: This provision of the Constitution for the United States of America is binding on all state public officers for which the defendants and State of Florida must maintain records and do so for public scrutiny." Such is DENIED by the Order without rime or reason as the Request is indeed VALID under the Constitution and Laws of

Florida. IF THERE IS NO SURETY BOND AND NO OATH FILED then the Jurists LACKED JURISDICTION WHICH WAS THE CHALLENGE REQUESTING PRODUCTION!

27. **Plaintiffs submit the documents requested for production are common to the like constitutional provisions for other state public officers records required to be maintained in all defendants' official records and must be produced when demanded to prove jurisdiction to sit at the bench over any trial or proceedings under discovery Rules in the Federal Rules of Civil Procedure and Federal Rules of Evidence.**

28. **Plaintiffs submit this COURT IS IN ERROR relative to stopping discovery of NON ATTORNEY LITIGANTS and further failure to be bound by an oath after having given an oath in order to discharge the duties of public office claimed perjures the oath given to support the nation's constitution and, for state office claimants, the applicable state constitution. Perjuring the oath of office at any stage of the process causes the perjurer to suffer a forfeiture of the office claimed held for failure to perfect title to that public office thus challenge to JURISDICTION AND DISCOVERY SEEKING TO CONFIRM FACTS MAY NOT BE OVERLOOKED BY ANY FAIR AND IMPARTIAL JURIST AT THE FEDERAL LEVEL.**

29. **Plaintiffs submit the Case in DC reflects clearly that none of the public officers in the States of New Mexico, Colorado, Wisconsin, Missouri, Texas, and Florida are covered by valid individual surety bonds on record in the defendants Offices of Secretary of State and payable to the applicable named state for**

failure to faithfully perform the duties of office and no writs of quo warranto are available to any citizen in any one of them in either state or federal courts of law.

30. **Reportedly in New Mexico, Treasurers both current and former have been arrested on charges of participating in bribery schemes; they were not covered with surety bonds and could not participate in meaningful way to call the bonds of any other wayward and unbonded public office claimant. [See DC Case cited].**

31. **Plaintiffs submit under the Substantial Evidence Test that NO ONE HOLDS OFFICE where records are maintained for failure to acquire approved individual surety bonds coverage payable to the applicable state for faithful and diligent performance of office duties and thereby those would be failing to perfect title to the office claimed and ANY JURIST without those required Oaths and Surety Bonds failed to perfect title to the OFFICE OF JUDGE and thus lost jurisdiction as a matter of LAW.**

32. **Plaintiffs submit that the Attorneys, fellow BAR members of the defendant jurists and Attorneys/Defendants charged herein ALSO have a duty to report FRAUD UPON THE COURT AS WELL AS KNOWN CRIMINAL ACTS INVOLVING RECORDED/PROVABLE PERJURY, and such may not be ignored by this or any Court under the Constitution and Laws of the United States and State of Florida and further, attorneys are required to notify the Court of such perjury immediately as well as notify law**

enforcement authorities who MUST commence a full investigation into same felony reported.

33. **PLAINTIFFS ARE FULLY AWARE THAT ANY REPORT OF CRIMINAL ACTS INVOLVING PERJURY OR FRAUD UPON THE COURT, IF FOUND BASELESS COULD RESULT IN ARREST BY THE COURT OF THE PLAINTIFFS FOR CONTEMPT OR RESULT IN CHARGES BY ANY PUBLIC SERVANT INCLUDING THE POLICE FOR FILING A FALSE CRIME REPORT.**

34. **Plaintiffs submit the information submitted herein is a NOTICE to the Court and all opposing counsels who will no doubt be given ample time to respond with any objections or comments to this Court as is usual and customary for trial cases filed by anyone.**

35. **Plaintiffs are in the process of filing additional NOTICES AND MOTIONS FOR RECONSIDERATION following receipt of the latest Order of this Court dated 20 September 2005 and sent by mail.**

WHEREFORE Plaintiffs respectfully provide SECOND Notice and Motion for Reconsideration to one Order of this Court [Doc. 90] and PRAY for all relief proper and just as stated herein.

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing will be deposited with the United States Post Office for Attorneys: Joseph A. Robles, Assistant Attorney General; Attorney John Wilkins Day, Attorney Randall Odo Reder; Attorney Brian Equi at their normal addresses filed with this Court in a timely manner.

Executed on this 3rd day of October, 2005

/SS/
Ruth D. Bundy
Petitioner, Witness, Victim
4503 W. North A Street
Tampa, Florida 33609-2028
Phone: (813) 286-2333

/SS/
Ralph Charles Whitley, Sr.
Petitioner, Witness, Victim
4532 W. Kennedy Blvd.
PMB 276
Tampa, Florida 33609-2042
Phone: (813) 417-8747

JOINT FAX: (813) 636-4022

APPENDIX P

Plaintiffs' Third Notice and Motion for Reconsideration Involving Orders [Doc 26] [Doc 90], Dated October 3, 2005 and Filed October 4, 2005.

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Tampa Division

Ruth D. Bundy;
Ralph Charles Whitley, Sr.;
Plaintiffs,

Vs.

James H. Board;
Randall Odo Reder;
John Wilkins Day;
Judge Herbert John Baumann, Jr., in his official capacity;
Supreme Court of Florida;
District Court of Appeal Second District of Florida;
Bruce Welch, M.D.;
COLGI, INC., a Florida Corporation for Profit;
Steve Martin;
Defendants.

Case No: 8:04-CV-1439-T-23TBM
(L.T. Case SC04-480 Florida Supreme Court
L.T. Case 2D 02-5449 Florida DCA 2ND
L.T. Case 98-8569 Div I 13TH Judicial Circuit
L.T. Case 97-10682 CC 13TH Judicial Circuit
L.T. Case 93-11695 CC 13TH Judicial Circuit)

PLAINTIFFS' THIRD NOTICE AND MOTION FOR RECONSIDERATION INVOLVING ORDERS [DOC 26] [DOC. 90]

COME NOW Plaintiffs, Ruth D. Bundy ("Bundy"), Ralph Charles Whitley, Sr. ("Whitley"), non attorneys, victims, witnesses, pursuant to Local Rule 3.01, Fed.R.Civ.P. Rule 60 providing NOTICE and Motion for Reconsideration involving Orders of this Court and in support would submit:

CASE HISTORY

1. **The case presented to this Court began as a result of a *Clerk and Judges* of a State Court Dismissing Plaintiffs action and Committing Fraud plus aiding perjury of defendants and attorneys representing same without Subject Matter Jurisdiction and Authority of Law and ALL documents filed or submitted to this Court including Notices and Motions for Reconsideration along with all exhibits are included herein through reference thereto.**

2. **Plaintiffs were Denied their rights of recovery or remedy under Law.**

3. **Plaintiffs were Denied their rights to Due Process under Law.**

4. **Plaintiffs were Denied their rights to Access to the Courts.**

5. **Plaintiffs properly advised even this Honorable Court of the Fraud, Perjury and evidence backing up all statements in ¶¶ 1-4 above.**

6. **Plaintiffs have no legal recourse within the State of Florida and must seek review by a cold and neutral jurist in the Federal Court to correct a miscarriage of justice involving PERJURY and failure of jurists and attorneys to follow their Oaths taken.**

GROUNDS FOR MOTION FOR RECONSIDERATION

7. **Plaintiffs assert that Every Motion previously filed in this action by Pro Se Plaintiffs was Denied, by a Clerk, or Jurists on it's face without consultation and consideration of Supporting Documents and Exhibits of Evidence.**

8. **Plaintiffs, as non attorneys in proper person re-assert their claim that the Clerk of the Court and specific Judges acted under the guise of authority issued them by the State of Florida and others and committed said acts of a criminal nature Under Color of Law by placing their own signature or seal on legitimate Court Documents as if they, in fact, had such authority to do so.**

9. **Plaintiffs further assert their claim that the State of Florida and others were in error by their individual and collective errors and actions violating the other cited relevant Constitutions/Statutes/Laws/Titles/Canons/Codes/ Rules of Court which are provable and reflected in the Court RECORDS in each case referenced and prove such actions by each Defendant so named in this Case.**

RELIEF REQUESTED

10. **Plaintiffs, as non attorney litigants in proper person can only PRAY that this Honorable Court reconsider it's previous Order or Ruling that this case be and is Dismissed and no further submissions be allowed.**

11. **Plaintiffs will therefore attach a proposed ORDER which any defendant can Object To or offer other comments as each defendant will be properly SERVED with this document under the Rules of this Court.**

12. **Plaintiffs hope the Court will extend ALL DISCOVERY ACCORDINGLY in light of the dates changing drastically with no hope of trial before perhaps late 2006 or early 2007 to allow Interrogatories, Admissions and other discovery depositions to be taken/completed prior to Trial By Jury as demanded.**

PROPOSED ORDER MOTIONS TO RECONSIDER PREVIOUS ORDERS OF THE COURT

The Court hereby being otherwise sufficiently advised; Plaintiffs Motions for Reconsideration by the Court are hereby SUSTAINED and previous orders of this Court to dismiss this action with prejudice is hereby OVER RULED or QUASHED.

_____

Judge, U.S. District Court

WHEREFORE Plaintiffs respectfully provide THIRD Notice and Motion for Reconsideration and PRAY that this Honorable Court reconsider it's previous Order or Ruling that this case be and is Dismissed and no further submissions be allowed.

CERTIFICATE OF SERVICE

We hereby certify that a true and correct copy of the foregoing will be deposited with the United States Post Office for Attorneys: Joseph A. Robles, Assistant Attorney General; Attorney John Wilkins Day, Attorney Randall Odo Reder; Attorney Brian Equi at their normal addresses filed with this Court in a timely manner.

Executed on this 3rd day of October, 2005

/SS/
Ruth D. Bundy
Petitioner, Witness, Victim
4503 W. North A Street
Tampa, Florida 33609-2028
Phone: (813) 286-2333

/SS/
Ralph Charles Whitley, Sr.
Petitioner, Witness, Victim
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Phone: (813) 417-8747

JOINT FAX: (813) 636-4022

APPENDIX Q

Verified Complaint for Damages and Demand for Jury Trial and Demand for Declaratory and Injunctive Relief Against Judges and the Judicial Branch of Government of Florida, Dated June 21, 2004 and Filed June 22, 2004.

UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA
Tampa Division

Ruth D. Bundy;
Ralph Charles Whitley, Sr.;
Plaintiffs,
Vs. **Case No: 8:04-CV-1439-T-23TBM**
(L.T. Case SC04-480 Florida Supreme Court
James H. Board; L.T. Case 2D 02-5449 Florida
Randall Odo Reder; DCA 2ND
John Wilkins Day; L.T. Case 98-8569 Div I
Judge Herbert John 13TH Judicial Circuit
Baumann, Jr., in his L.T. Case 97-10682 CC
official capacity; 13th Judicial Circuit ;
Supreme Court of L.T. Case 93-11695 CC 13th
Florida; District Court Judicial Circuit)
of Appeal Second District
of Florida; Bruce Welch, M.D.;
COLGI, INC., a Florida Corporation for Profit;
Steve Martin;
Defendants.

VERIFIED COMPLAINT FOR DAMAGES AND DEMAND FOR JURY TRIAL AND DEMAND FOR DECLARATORY AND INJUNCTIVE RELIEF AGAINST JUDGES AND THE JUDICIAL BRANCH OF GOVERNMENT OF FLORIDA

1. This is an action **brought** by **Ruth** D. **Bundy ("Bundy"),** Ralph Charles Whitley, Sr. "Whitley"), **non** attorneys, victims, witnesses, seeking damages and jury trial as against all **Defendants, Corporations and Individuals identified** herein **in the following paragraphs or Counts as well as additional declaratory and injunctive relief against the members or officers of the court of the judicial branch of government for the State of Florida where indicated.**

2. **Plaintiffs seek an award of $17,000,000.00 [SEVENTEEN MILLION DOLLARS IN U.S. CURRENCY] as against each non judicial branch official ~~defendant~~ named herein individually for each Count in this Complaint plus any other additional award deemed proper and just following a jury trial on all issues so triable plus Declaratory and Injunctive Relief as against the Supreme Court of Florida, Second District Court of Appeal and Judge Herbert John Baumann, Jr. in his official capacity as lower tribunal jurist as deemed proper and just by this Court.**

3. **Bundy and Whitley as Plaintiffs ("Plaintiffs") also seek special declaratory and injunctive relief against the identified members of the Judicial Branch of Government for the State of Florida involving Supreme Court of Florida Case SC04-480, Second District Court of Appeal Case 2D 02-**

5449 and 13TH Judicial Circuit Court Case 98-8569 Division I following an Appeal which now leaves no relief or remedy available for errors or actions of the Judicial Branch of Government for the State of Florida by and through specific Officials which triggers special powers of this Federal District Court under Title 28 United States Code for declaratory judgment and quashing all Orders of the State Court allowing either a NEW TRIAL to Plaintiffs or awarding the entire Case to Plaintiffs based upon the errors and conspiracy of those involved which violated the Civil Rights of Plaintiffs and will be proved at trial as jury trial is demanded.

ALLEGATIONS AS TO FACTS PLAINTIFFS RELY UPON FOR EACH DEFENDANTS VIOLATIONS OF TITLE 42 USC SECTIONS 1981-1986 CIVIL RIGHTS AND DUE PROCESS RIGHTS PLUS CRIMINAL LAWS OF THE UNITED STATES AND FLORIDA AND VIOLATION OF THE CONSTITUTION AND RULES OF COURT FOR FLORIDA AMOUNTING TO REVERSIBLE ERRORS.

SUPREME COURT OF FLORIDA VIOLATIONS

4. **Upon information and belief, the Supreme Court of Florida hereinafter "Supremes" including seven Justices and Clerk, aided by other Florida BAR members and judges of the District Courts of Appeal of Florida such as the Second District Court of Appeal in Lakeland, violated at will the Constitution of the State of Florida Article V Section 3(a) by failing to have a quorum render a decision on some estimated 20,000 cases filed since 1980 based upon a perceived unconstitutional**

written policy known as the Internal Operating Procedures which give the full power of the Supremes to the Clerk and all fees collected from over 20,000 litigants was deposited with the Court, filings and documents destroyed or filed stored in an undisclosed location at tremendous expense from Litigants for NOTHING as the Supremes failed to follow the Constitution of Florida Article V Section 3(a) under color of law or authority using the written IOP to circumvent the Constitution having one questionable purpose: To reduce 3,000 cases to 2,000 cases AT WILL using the "PCA" without written opinion denial of access to courts, improperly blocking equal access to the courts and denial of due process and rights to petition government for redress of grievances plus denying right to petition court for review when a rogue jurist Herbert John Baumann, Jr., hereinafter "Baumann" of the 13TH Judicial Circuit Court with perjury by James H. Board, hereinafter "Board", Steve E. Martin, hereinafter "Martin", COLGI, INC., hereinafter "COLGI", Dr. Bruce Welch, M.D., hereinafter "Welch" through conspiracy aided and concealed by Officers of the Court Attorney John Wilkins Day, hereinafter "Day" plus Attorney Randal Odo Reder, hereinafter "Reder"deprived Plaintiffs of a proper trial and true verdict against all defendants in a lower tribunal case 98-8569 Division I, jury trial.

5. Clearly the Internal Operating Procedure, hereinafter "IOP" in question states the following which is believed in violation of the Constitution of Florida Article V Section 3(a) : "Section II. Internal Procedures for Handling Cases. A. Discretionary Review. 1. Discretionary Review of District Court

of Appeal Decisions (Except Those Certified by District Courts of Appeal). (a) When a party files a notice seeking to invoke discretionary review, the clerk's office determines whether the district court of appeal has written an opinion in the case. If there is no opinion, the case is docketed and automatically dismissed by the clerk's office. In such cases, no rehearing is allowed..." Emphasis Plaintiffs.

6. **Such IOP violates Article V. Section 3(a) of the Florida Constitution requirement that all decisions of the Supreme Court be made by a QUORUM OF JUSTICES (5) and in the item quoted above NO JUSTICE EVER SEES THE CASE, the money is taken and ALL SEVEN COPIES submitted with the Original are possibly destroyed DENYING ALL LITIGANTS DUE PROCESS by delegation of full Supremes authority to a Clerk or BAR MEMBER CLERK.**

7. **Plaintiffs feel their rights and due process have been violated under color of law or authority by such written policy of the Supremes HIDDEN AS A DIRTY LITTLE SECRET by ALL BAR members including members of the Legislative Delegation and legal counsel for the Office of the Governor and Attorney General as some 20,000 to 30,000 PCA victims have paid high prices for attorney or BAR member appeals only to see those appeals DISMISSED by a Clerk.**

8. Plaintiffs submit upon information and belief that former Justice Adkins dissent in Jenkins V. STATE, 385 So.2d 1356 exposed the true nature of the Seven Justices lobbying along with the BAR the public and legislature to grant more power to the Supreme Court when in fact such resulted in LOSS OF POWERS HELD BY THE PEOPLE and increased POWER OF THE DISTRICT COURTS OF APPEAL such as the Second District Court of Appeal, hereinafter "DCA" so that more cases could be thrown out before the overburdened Supremes had to hear them or decide via a quorum of FIVE (5) JUSTICES rendering a decision which is within the Constitution of Florida and believed violated by the IOP and Clerk denials or dismissals.

9. No doubt the PRESS and GOVERNOR plus others will feel Plaintiffs are SENILE OLD FOOLS who misread the Constitution when their legal counsels would indicate the Supremes can make any Rules or IOP's and such TRUMP the Statutes and Constitution as a matter of LAW OR RIGHT under some stupid SEPARATION OF POWERS DOCTRINE.

10. No doubt the PRESS and GOVERNOR forget the Executive Branch ENFORCES LAWS and the LEGISLATIVE BRANCH makes the laws with the Supremes were NEVER given permission under the Constitution to MAKE LAWS but the Rules and IOP's obviously are viewed by BAR members as the SUPREME LAW OF THE STATE OF FLORIDA.

11. Plaintiffs, upon information and belief, have followed the Rules of Court for Florida seeking review by the Supremes and initially filed a valid NOTICE OF APPEAL pursuant to the Rules of Appellate Procedure Rule 9.120 Discretionary Proceedings to Review Decisions of District Courts of Appeal which resulted in an ACKNOWLEDGMENT OF NEW CASE dated March 19, 2004 indicating the Following:

"RE: RUTH D. BUNDY, ET AL. vs. COLGI, INC., ET AL
CASE NUMBER: SC04-480
Lower Tribunal Case Number: 2D02-5449

The Florida Supreme Court has received the following documents reflecting a filing date of 3/18/2004
Notice of Appeal
$250.00 Filing Fee

The above notice has been treated as a Petition for Writ of Mandamus.

Ralph C. Whitley, Sr.'s check number 1042 in the amount of $250.00 is returned herewith. Please remit a check in the amount of $250.00 made payable to "Clerk, Florida Supreme Court." Your petition will not be submitted to the Court until receipt of the above.

The Florida Supreme Court's case number must be utilized on all pleadings and correspondence filed in this cause. Moreover, ALL PLEADINGS SIGNED BY AN ATTORNEY MUST INCLUDE THE ATTORNEY'S FLORIDA BAR NUMBER."

The CLERK further issued the following on Friday, March 19, 2004:

"Petitioners Notice of Appeal, filed in this Court on March 18, 2004 has been treated as a petition for writ of mandamus seeking to compel the Second District Court of Appeal to issue a written opinion in Bundy v. Colgi, Inc., 2D02-5449.

Petitioners are allowed to and including April 8, 2004, in which to file a proper petition for writ of mandamus, that complies with Florida Rule of Appellate Procedure 9.100, addressing why they are entitled to a written opinion from the Second District Court of Appeal in the proceedings below.

The failure to file a proper petition with this Court within the time provided could result in the imposition of sanctions, including dismissal of this case. See Fla.R.App.P. 9.410."

12. **The Clerk received not only the Notice of Appeal required in Rule 9.120(cc) but also the Brief on Jurisdiction under Rule 9.120(d) and CLERK deemed the NOTICE OF APPEAL as a Petition for Writ of Mandamus causing Plaintiffs to prepare under direction a full Petition – plus- the Clerk struck the Brief on Jurisdiction as unauthorized indicating clearly the Clerk alone and no Justice had made any decision let alone a quorum of Justices in violation of the Constitution of Florida Article V section 3(a).**

13. Plaintiffs filed Supplemental Information believed allowable under Fla.R.App.P. Rule 9.225 which was before a decision was rendered and the CLERK on Tuesday, May 18, 2004 indicated "Petitioners' Supplemental Information Relative to Appeal to be Heard by the Highest Court of Florida is hereby stricken as unauthorized." Again no Justice or Quorum of Justices was indicated as having made such a decision in violation of the Constitution of Florida Article V section 3(a).

14. Plaintiffs filed a timely Petition for Writ of Mandamus and after waiting a few days the Clerk only on Wednesday, April 28, 2004 indicated : "Having determined that this Court is without jurisdiction in light of the order of dismissal in R.J. Reynolds Tobacco Co. v. Kenyon, No. Sc03-1577, dated April 22, 2004, this case is hereby dismissed. No motion for rehearing will be entertained by the Court." Such violates the Constitution of the State of Florida Article V Section 3(a) as no QUORUM OF JUSTICES rendered the decision and the Clerk relied upon the IOP to deny the case.

15. Plaintiffs filed a "Motion for Clarification of Suspicious Document Signed Wednesday, April 28, 2004, by Clerk" and on Tuesday, May 11, 2004 the CLERK indicated the Motion "has been treated as a Motion for Rehearing and pursuant to this Court's order dated April 28, 2004, said motion is hereby stricken as unauthorized." Oddly Plaintiffs could still NOT FIND ANY ORDER OF DISMISSAL for R.J. Reynolds Tobacco Co. v. Kenyon, No. SC03-1577 and to this day does not

know WHY or under WHAT REASONING the Clerk dismissed the CASE without a quorum of Justices making that decision.

16. Plaintiffs submit the Florida Rules of Court are specific as all BAR members have mandatory ministerial duties which may not be ignored or neglected because a jurist like Baumann or BAR member like Day or Reder do not feel like following the Laws or Rules.

17. Violation of the Oaths taken and duties which are mandatory and covered in the Rules, Canons and Rules Regulating the BAR were clearly indicated implicating Baumann, Day, Reder in the Reply Brief [Exhibit B] to case 2D02-5449 by page, line of the four volume transcript [Exhibit A] and such violations do not trump the LAW, CONSTITUTION or duties known to exist mandating REPORTING CRIMINAL PERJURY TO JUDGES AND AUTHORITIES, JUDICIAL QUALIFICATIONS COMMISSION AND FLORIDA BAR for investigation and action.

18. Plaintiffs submit that Baumann, Day, Reder, and other BAR members cannot stay silent and do nothing when a Baumann is shown to have violated the Rules of Court and each JUDGE or JUSTICE who receives such information may not remain stay silent and do nothing when a BAR MEMBER or DEFENDANT/DEFENSE WITNESS commits PERJURY in any trial and it is reported and confirmed by Court Case Files. Judges Baumann, Menendez, " Second District Court of Appeal, hereinafter "2ND DCA" [Salcines, Northcutt, Casanueva plus Clerk] ALL failed to report jurists,

BAR members and defendants and Welch for PERJURY to the authorities thus deprived Plaintiffs of due process and joined Defendants as accessories after the fact under Florida Statutes Chapters 777 and 837.

LOWER TRIBUNAL VIOLATIONS INVOLVING BAUMANN

(Civil Rights Violations/Denial of Due Process/Denial of Right to Jury Trial/Denial of Right to present Evidence and impeach Defendants/Witnesses/Failure to properly do the work mandatory for ministerial as well as actual duties as a Judge under the Laws, Constitution and Rules of Court for Florida which violated the Federally Protected Civil Rights of Plaintiffs and Laws of Florida)

19. Upon information and belief Plaintiffs charge Baumann with the following violations as indicated:

20. Violation of Canon 3E in that Baumann announced moments before trial commencement that "I have discovered by Spouse is a potential material witness!" then stayed in the Courtroom Day indicated clearly that SHELLY P. BAUMANN, M.D. would NOT be called as a witness nor discussed at the trial.

21. Plaintiffs remembered the Judge stated something like "Although her involvement is DI MINIMIS I would have to recuse myself if her name was used" and the Court Reporter Beth Malone failed to follow mandatory Rules of Court and did not transcribe the statements or other information when Plaintiffs paid $3,500 for the transcripts for appeal purposes.

22. Baumann controlled the Officers of the Court including Clerk, Bailiff, Court Reporter and Attorneys yet many important verbal statements and information READ to the Jury were omitted from the Transcript of Trial for reasons unknown.

23. Further, Plaintiffs filed under Fla.R.App.P. Rule 9.200(f) Supplement with the statements of the Court and Defense counsel with the 2ND DCA and were advised that Rule 9.200(b)(4) required the Lower Tribunal to receive a Statement which was filed timely.

24. Baumann struck the ENTIRE STATEMENT OF PLAINTIFF'S IN ERROR and only allowed a short statement admitting the jurist mentioned his spouse was indicated as a potential material witness YET COMMITTED ERROR by not allowing the CLERK to INCLUDE THE STATEMENT IN THE RECORD or forward the statement to the 2ND DCA.

25. Day asked Welch to name the medical doctors who furnished written findings as treating physicians concerning Bundy and the name Shelly P. Baumann was read to the Jury without comments from Baumann since same implicated his spouse had erroneously been a "Treating Physician which was a LIE plus wrote a written report relied upon by Welch to support Welch's findings which was also a lie KNOWN by Baumann to be untrue as Baumann's spouse was a RADIOLOGIST and in fact the X-RAY evaluated by Radiology Specialist Dr. Baumann was requested by Dr. John Carthy as a routine MAMMOGRAM reading which had nothing to do with the Case and other so

called Treating Physicians examined and/or treated Bundy for a BROKEN LEFT FEMUR in 1999 and afterward which had no bearing or relevance to the case at trial before the jury.

26. Baumann and Day were aware of the PERJURY by this witness and did nothing even after trial when proof was provided which should have prompted an EVIDENTIARY HEARING AND REVERSAL OR AWARD OF A NEW TRIAL based upon such obvious perjury by Welch prompted by Day who knew such was a lie and failed to do anything along with Baumann.

27. Baumann ignored the Florida Rules of Appellate Procedure Rule 9.200(b)(4) which is NOT DISCRETIONARY BUT MANDATORY and a ministerial duty depriving Plaintiffs of a supplement to the record thus denying Due Process or Civil Rights of Equal Access to the Courts concerning statements Baumann made about his spouse being a potential material witness and other facts which were denied solely by opposing counsel Day who knew precisely what Baumann had said in open court before the prospective jury was called in.

28. Baumann refused Plaintiffs the right to depose the Clerk, Court Reporter and Bailiff concerning the statements made by the Jurist under color of law or authority when such evidence was crucial to an appeal to 2ND DCA.

29. Baumann sent bailiff Ken Jones to the TABLE of Plaintiffs on TWO OCCASIONS where Jones told the Plaintiffs "You are doing an excellent job <u>but do not argue with the judge</u>".

30. Baumann is believed to have committed reversible ERROR telling Whitley that OBJECTIONS from the Witness Stand were not allowed and therefore Whitley was not to object to any question from Day while on the stand.

31. Baumann is believed to have committed reversible ERROR telling Bundy she could not have any other part of a deposition presented by opposing counsel before the jury read to make a clarification which is contrary to the Rules of Evidence and deprived Bundy of the right to have any portion read in addition to the two lines or so presented from an entire deposition which favored Day's case needs.

32. Baumann used physical mannerisms such as pointing repeatedly with CUB SCOUT SALUTE positioning of fingers from the bench DIRECTLY at Plaintiffs repeatedly in full view of the Jury but NEVER pointing in such a manner at the Day's table which was annoying and offensive but physical mannerisms do not always rise to the lever of ERROR warranting reversal of a case but were a bad habit demeaning the Plaintiffs case to the jury and collectively harmed Plaintiffs case.

33. Day would, at an Oral Argument hearing before the three judge panel of the 2ND DCA lie to the Panel stating the jurists actions were like pointing the first finger next to the thumb UP to the ceiling indicating ONE or SHUSHING A CHILD with one finger which was inaccurate and a LIE but the panel would NOT SWEAR IN THE PARTIES APPEARING BEFORE IT and Day could tell all of the lies he desired about the mannerisms of Baumann and to this DATE Baumann Jr. has NEVER confirmed such actions.

34. Baumann further never confirmed the interruptions directed to Plaintiffs only as Baumann continuously interrupted Plaintiffs presentation by pointing and stating "Ask another question!" or something similar all during the trial which is indeed reflected in Exhibit A Transcript of Trial 4 Volumes and cited in Exhibit B the Reply Brief to the 2ND DCA.

35. Plaintiffs find it hard to believe that Baumann would NOT ADMIT his mannerisms and interruptions were clear signals to the Jury detrimental to the Plaintiffs case.

36. Plaintiffs further find it hard to believe that Day, without a MOTION IN LIMINE got Baumann to forbid Plaintiffs from mentioning the fact that Martin was hired as a SUBCONTRACTOR, CLAIMED TO BE A SUBCONTRACTOR FOR 9 YEARS supported by sworn testimony by both Martin and Board and COUNTS were specific in the Complaint concerning same but Plaintiffs were forbidden to raise the facts concerning employment or anything related to insurance, licenses NOT HELD which were mandatory under the LAWS, ORDINANCES and Statutes all DENIED UNDER COLOR OF LAW OR AUTHORITY preventing Plaintiffs from presenting evidence to support their case against COLGI, Board or Martin IN ERROR which should be considered in this quest for a NEW TRIAL because of the ERRORS and interference of Baumann, Jr. in collusion with Day claiming a previous trial ruling applied in the NEW TRIAL when no Motion In Limine was filed or ruled upon by Baumann resulted in denial of DUE PROCESS and CIVIL RIGHTS VIOLATION which should not be swept under the table or ignored/condoned.

37. Baumann is believed to have violated the Florida Rules of Civil Procedure in many instances which will be covered below before, during and after trial even into the Appeal up to this very date and has failed to report PERJURY OR MISCONDUCT/ERROR to the authorities or higher courts thus continues to aid and abet Misconduct, ERROR, Criminal Perjury denying Plaintiffs Civil Rights and Due Process as well as right to a NEW TRIAL, RIGHT TO RECEIVE A TRUE VERDICT AGAINST ALL DEFENDANTS IN CASE 98-8569 Division I plus violated the Rules of Court and Laws of Florida when refusing or denying MULTIPLE Motions for Disqualification/Relief/Interview Jurors/New Trial Motions and Rehearing Motions under color of law or authority known to be in violation of the Rules by Day and Reder who remain silent in violation of the RULES owing a duty to report the jurist and fellow BAR members for violating the Rules of Court and Laws of Florida thus conspiring to hide the violations and errors causing damage to Plaintiffs which continues from the first day of trial 21 October 2002 to present damaging Plaintiffs.

38. Baumann, upon information and belief, has possibly violated the Florida Evidence Code and other Rules of Court as indicated clearly in Exhibit B (Reply Brief 2D02-5449) attached hereto and included herein fully by reference with some examples indicated below well known to Day, Reder, 2ND DCA panel Salcines, Northcutt, Casanueva and other BAR members including Chief Judge Menendez and ALL have failed to notify the authorities, JQC or BAR of such violations contrary to the Florida Rules of Court aiding in a conspiracy to keep the information SECRET along with perjury.

39. Baumann is believed to have violated Evidence Code section 90.104 when Plaintiffs clearly indicated perjury of witnesses/defendants with the proof being in the record and handy for impeachment purposes Baumann stated NO RECORDS WILL BE ALLOWED IN THIS COURT which clearly violated the substantial rights of Plaintiffs and Civil Rights/Due Process and equal access to the Court and proceedings and such violation and ERROR was fully known by Day and other BAR members or jurists who failed to report Baumann as required under the Florida Rules of Court and Laws of Florida.

40. Baumann is believed to have violated Evidence Code section 90.201 when Plaintiffs presented a request for judicial notice of the Decisional, Constitutional, and public statutory law and resolutions of the Florida Legislature and the Congress of the United States, Florida Rules of Court during Trial and after trial while Plaintiffs were perfecting an Appeal as clearly the Chapters of the Florida Statutes such as 489 [Contracting], 837 [Perjury] were well known and the Florida Rules of Court violations by Day involving Relevant Evidence, Psychotherapist-patient privilege and requirement for Court Order for Psychiatric Evaluations was known and ignored along with other Rules mandating ministerial actions including HEARINGS or referral of Motions to other Judges were involved and such violation and ERROR was fully known by Day and other BAR members or jurists who failed to report the Jurist for such violations.

41. Baumann is believed to have violated multiple Rules of Court including the Evidence Code sections 90.608 [Who may Impeach]; 90.613 [Refreshing the memory of a witness]; 90.614 [Prior statements of witness],

Extrensic Evidence denying Plaintiffs right to use COURT RECORDS from Case 93-11695 CC, 97-10682 CC and 98-8569 Division I during TRIAL to impeach Board, Martin, COLGI, for obvious perjury under oath with court documents IN THE COURTROOM and such violation and ERROR was fully known by Day and other BAR members and jurists who failed to report Baumann.

42. Baumann is believed to have violated Rules of Civil Procedure such as Rule 1.290 denying Plaintiffs right to take depositions BEFORE APPEAL under Rule 1.290(b) and refused Plaintiffs right to use Depositions as COURT RECORDS PRESENT IN COURT to impeach witness under Rule 1.330 plus Plaintiff BUNDY was denied right during trial to require the party to introduce any other part of deposition which is ERROR under Rule 1 .330(a)(4) and such violated the Due Process, Equal Access to courts and Civil Rights of Plaintiffs.

43. Baumann is believed to have violated Rules of Civil Procedure Rule 1.340(a),(b) by denying access to CORTROOM BOXES CONTAININT COURT RECORDS to impeach Board, Martin, COLGI, with Sworn Statements and Interrogatories from COURT RECORDS PRESENT IN COURT for Case 93-11695CC, 97-10682CC and Case 98-8569 Division I and such violation and ERROR was fully known by Day who failed to report Baumann for such violations.

44. Baumann is believed to have violated the Rules of Civil Procedure Rule 1.35 1 by denying Plaintiffs right to receive documents from Day and Welch which would prove perjury by Welch known to exist by Day who

suborned and hid such perjury from Baumann and Jury under color of law or authority from October 2002 to this very date.

45. Baumann is believed to have violated the Rules of Civil Procedure by not issuing an ORDER commanding Plaintiffs to be given the full psychiatric evaluation documents used by Welch during perjury in trial indicating even Baumann's SPOUSE had written a report which supported and confirmed the findings of perjury by Welch which were not challenged.

46. Baumann knew Welch and Day NEVER OBTAINED A COURT ORDER FOR THE PSYCHIATRIC EVALUATION SCHEDULED IMPROPERLY BY DAY under color of law or authority INVOLVING BUNDY and further the entire records were never provided to Bundy who had no way to counter PERJURY in trial.

47. Baumann is believed to have violated the Rules of Civil Procedure along with Day under Rule 1.360 for scheduling or condoning a mental examination of Plaintiff Bundy for a condition NOT PHYSICAL but mental which required an ORDER of Court and Baumann was informed Plaintiffs did not have the records and furnished with documentation indicating the Welch and Day were CLAIMING attorney work product when Rule 1.3460(b) clearly indicated the Report of Examiner MUST be provided to the other party and was never produced even under SUBPOENA to produce same

48. Baumann is believed to have refused to do his ministerial mandatory duty to see such report was provided via COURT ORDER in ERROR denying Plaintiffs of the right to such documents under color of law or authority committing reversible error detrimental to the cause of justice and deprived Plaintiffs of needed material for appeal purposes.

49. Baumann is believed to have violated the Rules of Civil Procedure Rule 1.410 [Subpoena] knowing full well a valid subpoena had been issued and served commanding production of the medical records of the psychiatric examination of Plaintiff Bundy and Welch as well as Day refused to completely honor such subpoena.

50. Plaintiffs applied for a COURT ORDER to have the subpoenaed documents produced to prove PERJURY by Welch known and hidden or suborned by Day and Baumann failed to do a mandatory ministerial duty denying equal access to court, due process and violating civil rights of Plaintiffs to have evidence critical to appeal.

51. Baumann is believed to have violated Fla.R.Civ.P. Rule 1.431(h) [Interview of a Juror] by NOT doing a ministerial mandatory duty to HOLD A HEARING on a proper MOTION plus ordering Plaintiffs NOT TO SEEK INFORMATION ON JURORS FOR NAMING SAME IN THE MOTION, DENYING NOTICE AND HEARING then issuing an ORDER denying not only the Motion but ORDERING Plaintiffs not to investigate the jurors or seek any information violating his duty and obligation to follow the mandatory provisions of the Rule to the detriment of Plaintiffs denying them due process and civil rights to expose

PERJURY of jurors who knew Bundy and her family and perhaps had purchased a fiberglass firm from the former spouse of Bundy who sold the business to a John Cook who was possibly a relative of juror COOK.

52. Baumann also is believed to have violated Fla.R.Civ.P. Rule 1.431(b) relative to a juror FOREMAN Williams who was believed a relative to a City Code Enforcement Inspector Mike Williams who Bundy cited and accused of PERJURY in a Code Enforcement Board hearing, failure of juror to report knowing Bundy would have been perjury and also tainted the jury trial results and the ministerial duties were ignored by Baumann for reasons unknown and believed reversible error warranting a NEW TRIAL.

53. Baumann also is believed to have violated Fla.R.Civ.P. Rule 1.450 by excluding evidence from the Jury and denying City and County occupational licensing supervisors an opportunity to be called as a witness for the Plaintiffs and as such the Jury never heard from these individuals who would confirm NO LICENSE HELD by Martin and Board or COLGI for Appliance Repair.

54. Baumann also is believed to have violated Fla.R.Civ.P. Rule 1.450 by excluding ALL QUESTIONS AND ANSWERS OR OBJECTIONS in the form of transcripts presented during trial EXCLUDING ALL SECTIONS where Day had raised ANY objection without the court sustaining or overruling the objection thus cutting out huge sections of a transcript under color of law or authority depriving Plaintiffs of the right to due process and violating the civil rights of Plaintiffs by restricting access to the Courts and rights to present evidence to a jury.

55. Baumann is believed to have violated the Fla.R.Civ.P. Rule 1.480 by not allowing Plaintiffs to receive a VERDICT as to COLGI and Board in multiple entities plus Martin in business entities depriving Plaintiffs of due process and violating Plaintiffs right to jury trial against all defendants as no true verdict was ever rendered by the JURY on same.

56. Baumann is believed to have violated the Rules of Court by rushing the jury to a verdict reminding them that he had to leave shortly and that the instructions and comments provided tainted the jury and rushed them to verdict ON ONE COUNT as against Steve Martin disregarding all submitted Verdicts for ALL DEFENDANTS ON ALL COUNTS as 16 counts in the Complaint were reduced illegally under color of law or authority violating equal access to the courts, due process and civil rights to a right to trial by jury on all ISSUES for all defendants and upon receipt of ONE VERDICT.

57. Baumann is believed to have committed FRAUD UPON THE COURT detrimental to Plaintiffs by converting one verdict for Martin into a FINAL JUDGMENT AGAINST ALL DEFENDANTS when the jury did not ever return a verdict for or against COLGI, Board or any entity sued in the Complaint owned by Board or Martin and presented to the Jury at trial.

58. Baumann is believed to have ignored Fla.R.Civ.P. Rule 1.540(b) Motions for relief from judgment, decrees or Orders based upon FRAUD and denial was immediate without investigation, hearing or further procedures when PRIMA FACIE PROOF was furnished of

FRAUD UPON THE COURT by not only the misconduct of Baumann but Day, Board, Welch, Martin.

59. Baumann is believed to have ignored Fla.R.Jud.Admin. Rule 2.160(f) and Fla.Stat. Chapter 38.10 Disqualification of Trial Judges in that no less than FIVE (5) Motions for Disqualification were filed in succession and Baumann alone DENIED EACH MOTION without hearing or referral to another jurist rather than follow the Rules and Statutory requirements that another jurist decide successive Motions which provided prima facie proof of ERROR and criminal conspiracy and civil conspiracy charges against the jurist as a basis for the Motions to Disqualify.

60. Baumann is believed to have ignored Florida Rules for Certification and Regulation of Court Reporters and sanctioned the failure of Beth Malone from the Official Court Reporter BERRYHILL AND ASSOCIATES who failed under Rule 13.120 and 13.130 to produce a verbatim copy of the spoken word for four days trial for which Plaintiffs paid $3,500.00 and the transcript was incomplete and inaccurate indicating incompetence and detrimental to due process and rights of Plaintiffs to be provided with a true transcript for appeal purposes where many comments of Bauman about spouse being a material witness were mysteriously absent from the transcript violating Fla.R.Jud.Admin Rule 2.070.

61. Baumann is believed to have ignored the Florida Rules of Court and failed as a BAR member to report Day for acts and actions involving perjury of the Day, Board, Martin, COLGI, Welch to the BAR and Chief Judge or

other authorities thus became an accessory during and after the fact to a felony perjury which was made known to Chief Judge Menendez who did nothing nor reported anyone further hiding criminal activities joining as an accessory after the fact.

62. Baumann had a ministerial obligation and duty to report any BAR member who violated the Rules of Court or Laws of Florida to the FLORIDA BAR and appropriate authorities plus higher Court Judges and other enforcers of the Law yet failed to do so detrimental to Plaintiffs who suffer from a miscarriage of justice based upon PERJURY and ERROR of the Court and Misconduct of the Court and Officers of the Court thus Due Process and Civil Rights violations are claimed.

Day, Reder, Board, Martin, COLGI, Welch and 2ND DCA Jurist Violations under Title 42 U.S. Code Section 1981-1986

(Examples of Defendants Board, Martin, Welch, Reder, Day, Baumann, Menendez, Salcines, Northcutt, Cassaneueva, Clerks of 13TH Judicial Circuit, 2ND DCA violating the Constitution, Laws and Statutes plus RULES OF COURT for Florida and the United States of America:)

63. Upon information and belief, each Defendant identified herein and named in this Complaint named Board, Martin, COLGI, INC., worked in consensus to achieve a single objective: to contrive an incident, or incidents involving sworn testimony which was false that would result in Plaintiffs being humiliated and discredited prior to the jury being charged to render a verdict so that the Defendants would gain advantage through perjury aided and abetted by Day, who along

with Reder, and reported to Baumann. and Chief Judge Manuel Menendez and other judges in the 2ND DCA as the Attorneys/Defendants had prepared documents since 1993 in Cases 93-11695 CC, 97-10682 CC and 98-8569 Division I in which sworn statements and testimony were inconsistent with trial testimony indicated clearly in Exhibit A attached hereto thus PERJURY under the Laws of Florida and the United States was allowed and Plaintiffs were barred improperly by the presiding judge from impeaching each perjurer with Court documents and other records filed with the Court and held by Plaintiffs and the Court.

64. Violations specific to Day and/or Reder plus Board, COLGI, and Martin as well as Welch follow.

65. Day took COLGI, and Board and all entities on for representation shortly after Case 93-11695 CC was filed and the CIGNA Insurance Company hired Day's firm and Day was assigned the case taking depositions, filing answers to interrogatories and other affidavits prepared by Day for Board, COLGI NOTARIZED by Day.

66. Day KNEW when Board, COLGI, or Martin lied under oath or made statements inconsistent with the filings from Case 93-11695CC or 97-10682CC and 98-8569 thus Day aided and abetted Board, Martin, COLGI in PERJURY UNDER OATH during the trial in furtherance of the conspiracy to commit perjury and subsequent to the trial concealed same as an accessory after the fact having a duty to expose such perjury.

67. Day failed to notify Baumann or any Jurist or Authorities of the conspiracy or perjry thus violated the Laws of Florida, Rules of Court and trust as an Officer of the Court all to the detriment and harm to Plaintiffs and their case being heard in Trial or Appeal.

68. Day based on information and belief willfully and maliciously with evil intent aided by Reder violated the Laws of Florida PERJURY and CONSPIRACY/ACCESSORY as he conspired with Reder, Board, Martin and Welch, to commit PERJURY to win the case at all costs after over 9 years employment by CIGNA Insurance Company then later ACER-USA or something similar who reportedly were getting ready to replace Day before trial in October of 2002 which proved a good motive to suborn PERJURY and lie like a rug to WIN AT ALL COSTS.

69. Reder and Day would apply for FEES AND COSTS following the miscarriage of justice knowing full well that the trial and Baumann were fraudulently duped by PERJURY from Board, COLGI, Martin, Welch and neither attorney came forward to admit or expose such felony conduct thus each become accessories along with the Baumann.

70. Day and Reder aided and abetted PERJURY, violated the Rules of Court and Rules Regulating the Florida BAR as they coached Board, COLGI, plus Martin as well as Welch on exactly WHAT to say which was different and inconsistent with sworn answers to interrogatories, affidavits and other filings in multiple cases.

71. Day conspired to secretly TRICK Plaintiffs as an officer of the Court into believing that Welch was go conduct a purely PHYSICAL EXAMINATION OF BUNDY when in fact the examination was to be ONLY PSYCHIATRIC and not only conducted ONCE BUT TWICE with all records, examination, findings and conclusions **declared attorney work product and SECRET from opposing party and patient BUNDY in violation of the Rules of Court and LAWS OF FLORIDA which command the psychiatrist RELEASE ALL FINDINGS AND RESULTS to Patient Bundy who asked many times to be given such records before, during and after trial.**

72. **Day further violated the Florida Rules of Court and Rules Regulating the Florida BAR and Laws of Florida involving Conspiracy and Perjury by his design and actions which ignored a properly issued SUBPOENA and failed to provide the medical records which would clearly indicate PERJURY of Welch and aided by Baumann;s refusal to ORDER PRODUCTION did indeed NOT HONOR A PROPER SUBPOENA ISSUED LEGALLY AND SERVED UPON Day and Welch for production of those medical records and TAPE RECORDINGS as each four HOUR session was TAPED.**

73. **Day and Reder have violated the Discovery Rules of Court, Florida Rules of Civil Procedure and Rules Regulating the Florida BAR through failure to provide Plaintiffs with business records from clients COLGI, Board, Martin requested under Motion for Production which would prove clients were committing perjury and SPOLIATION OF EVIDENCE by destroying Corporate records including PAY STUBS and other normally held**

business records which would identify and provide names and social security numbers and addresses necessary for discovery plus two other INDEPENDENT SUBCONTRACTORS named Ron Rubinski and Keith Haverkorn which have no HISTORY of ever working in Florida yet were identified and Plaintiffs were denied necessary information to seek discovery and depositions from these mystery people who never were identified to Plaintiffs.

74. Day and Reder violated multiple Rules of Civil Procedure and Rules Regulating the Florida BAR as they knew for years the County Court cases deserved to be in CIRCUIT CIVIL but withheld such material information from two County Court Judges along with Reder's silence caused a FIVE YEAR DELAY to Plaintiffs case and trial scheduling amounting to a denial of due process and civil rights violations while Day was being paid from CIGNA Insurance Company for hundreds of Hours of work and representation for COLGI, and Board until October 2002 when Day represented ALL defendants at Trial before Baumann.

75. Day and Reder KNEW of the perjury allegations reported to the Baumann, Menendez, Supremes including the 2ND DCA involving COLGI, Board, Martin and still remain silent furthering the Conspiracy and aiding and abetting criminal acts of perjury and remain silent.

76. Baumann could have possibly cured the ERRORS and PERJURY by an Evidentiary Hearing as several Motions were made by Plaintiffs seeking to expose the perjury which were refused by Baumann.

77. An EVIDENTIARY HEARING refused by Judge Baumann Jr. would have allowed RECANTATION OF DAY, BOARD, MARTIN, COLGI, WELCH and such recantation would have prevented criminal charges against anyone under Chapter 837 Florida Statutes.

78. Day and Reder as Attorneys and Officers of the Court have no protection from PERJURY CHARGES OR OBSTRUCTION OF JUSTICE or any other civil or criminal charges for their actions and inactions along with Baumann.

79. Day and Reder have NEVER reported the felony acts of COLGI, Board, Martin or Welch to authorities, any actions or inactions of Baumann to the JQC OR BAR thus Day and Reder have continued to this day violating the Florida Rules of Court and hiding a felony committed in Trial known as PERJURY damaging Plaintiffs emotionally, personally and continue to remain silent compounding the felony and causing further damages to Plaintiffs and their attempts to obtain a NEW TRIAL.

80. Day, Reder and now Baumann are fully aware Board repeatedly committed PERJURY during the four day trial and testified falsely as to statements allegedly made by Whitley regarding SHOOTING MARTIN OR PICKUP TRUCK which were

fabrications made in a conspiracy between Martin and Board with the full knowledge and consent of Attorneys Day and Reder.

81. Day, Reder and now Baumann are fully aware Martin also repeatedly committed PERJURY during the four day trial and testified falsely as to statements allegedly made by Plaintiff Whitley regarding SHOOTING MARTIN OR PICKUP TRUCK and mirrored claims of Board which contradicted previous sworn testimony and depositions or filings sworn in Case 93-11695CC and 97-10682CC plus Case 98-8569 Division I with the knowledge and consent of Attorneys Day and Reder.

82. Day, Reder and now Baumann are fully aware both Martin and Board repeatedly committed perjury about work done at 4503 W. NORTH A Street in 1993 which resulted in not only FIRE, SOOT, DAMAGE TO PROPERTY including the interior of the residence but also damage to the 10 year old Refrigerator/Freezer of Bundy as well as the INTERIOR of the residence which contradicted previous sworn testimony and written sworn documents filed in cases mentioned above and all perjury was known and approved or condoned by Day and Reder.

83. Day, Reder and Baumann are fully aware Board and Martin, with full consent and under furtherance of conspiracy between Day lied or committed perjury under oath UNCHECKED by Baumann who, along with the Plaintiffs KNEW the evidence and testimony from Plaintiffs and others clearly indicated Soot, Fire, Damage and injury to

Plaintiffs and property of Plaintiffs and when PROOF POSITIVE was furnished to the Court on Motions and Notice of Perjury the Court did nothing and failed to report same to authorities or hold an evidentiary hearing on same as such was indeed OPEN FRAUD UPON THE COURT and deprived Plaintiffs of a true TRIAL BY JURY due to perjury of Day, Board, Martin, Welch.

84. ALL proof was furnished to Sheriff Cal Henderson of the Hillsborough County Sheriffs Office commencing in December of 2002 and so far no INVESTIGATION has been properly conducted of the Jurist FRIEND OF SHERIFF HENDERSON who was with him and other judges on the 25TH day of October, 2002 at some personal or political function involving other judges and CLOSING OF THE ENTIRE COURTHOUSE which smacks of a cover-up or concealing a FELONY involving a sitting Judge Baumann.

85. Day and Reder heard or read the PERJURIOUS STATEMENTS OF BOARD, COLGI, MARTIN know instantly that the statements as to EXACTLY AND PRECISELY what Plaintiffs said or did or did happen or not were inconsistent and totally PERJURIOUS under Oath yet remained silent as Board and Martin continued to lie over and over again during testimony in Trial destroying the case for Plaintiffs and condoned by Baumann, who would not allow impeachment using Court Records known by the jurist to exist in Case 93-11695CC, 97-10682CC and 98-8569 Division I files.

86. Day and Baumann knew Plaintiffs had court records available and at hand with the Clerk in Court and in Plaintiffs boxes to impeach Board, Martin, COLGI but Plaintiffs were denied the right to use same under color of law or authority IN ERROR by Baumann who KNEW of the falseness of testimony and did nothing nor would the jurist allow Plaintiffs to use court records which clearly is MINISTERIAL and allowable/mandatory under the Florida Rules of Evidence leaving Plaintiffs NO RELIEF OR REMEDY to correct a miscarriage of justice involving a ROGUE JURIST named Baumann.

87. At no time have Day or Reder reported the actions of Baumann Jr. to another Jurist or Authorities such as the JQC or BAR and quite to the contrary Day indicated clearly to the 2ND DCA that Baumann made NO ERRORS or did NOTHING WRONG NOR DID ANYONE COMMIT PERJURY during the case being reviewed by the 2ND DCA.

88. Reder and Day had a duty and obligation under the Florida Rules of Court to follow specific Rules Regulating the Florida BAR and failed to report Baumann or each other as BAR members for actions violating the Rules of Court thus conspired together to NOT REPORT PERJURY OR ERROR of Baumann all detrimental to the cause of Plaintiffs and appeal filed.

89. Day knew Welch was fabricating false statements concerning "Treating Physicians and written reports allegedly received confirming findings that Bundy had not been injured in July of 1993 by

Martin's actions or negligence" yet this Officer of the Court failed to make the perjury known to Baumann or any Judge in any court or stop Welch from continuing with other names of physicians who NEVER treated Bundy in 1993 or afterward related to the injury to her lungs or central nervous system which provided false information to the JURY known to Baumann to be false.

90. Board and Martin repeatedly told the jury lies that Bundy had approved Martin's WELDING THE COMPRESSORS TO THE FRAME which was a LIE and NEVER REVEALED in 9 years of sworn testimony but part of a contrived story concocted by the conspiracy with Martin and Board KNOWN by Day and Reder to be a lie under Oath as Day and Reder both knew each and every statement made by Board, Martin, COLGI since 1993 written, notarized or verbal under oath.

91. Board and Martin repeatedly lied about the damage from welding painted surfaces and SMOKE or soot formation when WELDING OR BRAZING making their comments MIRROR each other in an obvious conspiracy to discredit Plaintiffs evidence presented to the jury regardless of statements made by other Professionals that there was not only smoke but fire and soot or damage from particles burned by the torch when welding.

92. Such comments were known perjury and Day and Reder plus Baumann recognized and understood the perjury once disclosed and Day allowed repeated statements from Board, Martin, COLGI,

Welch and failed to report to the Court such perjury on material facts and issues and concealed same even to this very day as part of a conspiracy to aid and abet perjury and prevent Plaintiffs from receiving a NEW TRIAL.

93. Plaintiffs ask this Court to grant a TRIAL BY JURY on the charges indicated herein against Defendants Board, Martin, Reder, Day and Welch and to give any relief deemed proper and just.

94. Plaintiffs further ask for an award of monetary damages plus PUNITIVE DAMAGES due to the verifiable conspiracy between the defendants which willfully, maliciously and with evil intent sought to destroy the case and destroyed the DUE PROCESS RIGHTS AND KNOWN CONSTITUTIONALY PROTECTED RIGHTS of Plaintiffs to access the Court, have a Trial By Jury, present evidence and receive a verdict against ALL DEFENDANTS plus compensatory damages and punitive damages in said trial by jury on all issues so triable.

95. Plaintiffs herein have demanded TRIAL BY JURY on all issues so triable as a matter of right.

96. Plaintiffs as NON-ATTORNEY LITIGANTS AND PLAINTIFFS cite the Constitution of the State of Florida and Florida Rules of Court plus Statutes of Florida, Laws of Florida and Constitution of the United States and Laws of the United States under U. S. Code Titles 18, 28, 42 which combined with State Statutes Chapters 777, 837 and others discussed later prove a civil and criminal conspiracy to violate the laws as well as civil rights of Bundy and Whitley who seek through this Complaint to

have the matter brought up to the Federal Court for Trial By Jury and resolution as all remedies have perhaps been exhausted in State Courts of Florida leaving no remedy or relief available except in Federal Courts of this United States of America in either this Federal Court, 11TH USCA or Supreme Court of the United States seeking also a declaratory judgment granting a NEW TRIAL in the Lower Tribunal due to reversible errors of the lower tribunal jurist which deprived Plaintiffs of a true trial and verdict against all defendants.

97. Plaintiffs submit the Complaint herein involves 21 October, 2002 to this present date and include charges allowable for PERJURY and Civil Conspiracy independent of the Complaint filed in Case 98-8569 Division I against multiple Defendants.

98. Plaintiffs are unaware as to how to structure the filing to indicate specific Counts and simply seek to provide a short and concise statement upon which Plaintiffs rely upon for relief and charges which may run into just over 80 pages total.

99. Plaintiffs submit under penalty of perjury on information and belief that an Investigation has reportedly been commenced in Hillsborough County, Florida by Sheriff Cal Henderson, Hillsborough County Sheriff under Case File 02-140946 with Detective Derrick Grace of internal affairs reportedly assigned the investigation instead of deputies from the criminal division after Governor John Ellis Bush became involved.

100. Plaintiffs submit upon information and belief that Sheriff Cal Henderson, Hillsborough County Sheriff, on or about the 25TH day of October, 2002 did join many local judges at a political or private function involving especially Judge Herbert John Baumann, Jr. and many other jurists and that the entire COURTHOUSE was shut down for such meeting private or political in nature depriving Plaintiffs and others of access to the court and indicating clearly jurists failed in a duty to do judicial functions over private desires to hold political or private meetings with Sheriff Henderson and others.

101. Plaintiffs submit upon information and belief that Governor John Ellis Bush has been asked to invoke the Florida Department of Law Enforcement to investigate charges of wrongdoing and perjury involving Judge Herbert John Baumann, Jr., Chief Judge Manuel Menendez, Officers of the Court Attorney John Wilkins Day, Attorney Randall Odo Reder and Defendants James Board and Steve Martin plus Defense Star Witness Dr. Bruce Welch, M.D. for PERJURY, Suborning Perjury, Aiding and Abetting Perjury, Conspiracy to commit perjury and also reported were three members of the Judiciary from the Second District Court of Appeal who are BAR members and Jurists and may indeed involve Sheriff Cal Henderson and others.

102. One CD ROM has been provided to Sheriff Henderson and One to Deputy Derrick Grace of the Internal Affairs section which prove PERJURY

UNDER OATH during an official proceeding (Trial Transcripts Provided plus filings from Case 93-11695 CC, 97-10682 CC and 98-8569 Division I).

103. Plaintiffs submit on information and belief that an investigation by the Florida Department of Law Enforcement under FDLE File EI-73-5183-38/38 and TN-48-479 involve the Tampa Field Office and FDLE Headquarters in Tallahassee, Florida with no indication that Governor John Ellis Bush has invoked the FDLE to investigate the public officials reported herein.

104. Plaintiffs submit on information and belief that Hillsborough County State Attorney Mark Ober reportedly has assigned Assistant State Attorney Mark Lewis to investigate the allegations reported and no response from the Attorney General of Florida as the Attorney General and Governor John Ellis Bush were advised of the perceived criminal acts warranting a full investigation, arrest and conviction of defendants who will be identified and named herein for same.

105. Plaintiffs submit that Governor John Ellis Bush has been asked to invoke the Florida Department of Law Enforcement to investigate all public officials and State Officials involved in this and other cases discussed herein as Lower Tribunal Cases.

106. Plaintiffs submit that a request for investigation by the Federal Bureau of Investigation through President George W. Bush has been forwarded to the FBI in Washington, DC plus local office of the FBI in Tampa with no indication of action by either entity.

JURISDICTION AND VENUE

107. It appears the Middle District of Florida has subject matter jurisdiction and venue for this Civil Complaint pursuant to Title 28 U.S. Code Sections 1331, 1337, 1391(b), 2201, 2202, Title 18 U.S. Code Section 241, 242, 1621 and others csuch as Florida Statutes Chapters 777 and 837 concerning accessory, perjury, conspiracy and felony conduct, Constitution of the United States of America and State of Florida and perhaps supplemental jurisdiction over Plaintiffs' state claims on PERJURY CHAPTER 837 FLORIDA STATUTES and TITLE 18 U.S. Code sections mentioned herein pursuant to Title 28 U.S. Code Section 1367 or any other section not known by non-attorneys will allow the court to review the Appeal and other filings in State Court where necessary.

108. Plaintiffs would ask in advance for permission or leave to AMEND this Complaint should another jurisdiction or venue be appropriate and especially in case other defendants presently unknown involved in the alleged conspiracy civil or criminal surface or are made known through depositions or discovery.

109. Plaintiffs submit under penalty of perjury based on extensive investigation, information and belief plus verification believed facts involving the Supremes was clearly hidden from the Governor and Legislature of Florida that the Justices and Clerk have willfully and maliciously conspired together with the assistance of District Courts of Appeal and BAR members who are officers of the courts to openly violate the Constitution of Florida and the

full power of the Supremes has been improperly and illegally or unconstitutionally delegated by written documentation to the Clerk of the Supreme Court of Florida to render decisions on cases without one single justice or quorum mandated by the Constitution rendering a decision for the Court.

110. Such violations of the Constitution of Florida Article V Section 3(a) were known by Seven Justices and served primarily the reduction of cases in the THOUSANDS and many MILLIONS OF DOLLARS were funneled to the Court coffers through such conspiracy since 1980 to present.

111. Supremes plus many Appeal Court Jurists enjoyed more time OFF to lecture or do other things as the Clerk was given ALL POWERS OF THE COURT and a quorum of Justices never rendered a decision on THOUSANDS of cases as a direct result of the written Internal Operating Procedure which violated openly the Constitution and continues to this very day as a DIRTY LITTLE SECRET withheld from the Governor and Legislature of Florida by trusted BAR member advisers who perhaps have a conflict of interest and duty to the Supremes higher than their duty and Oath for position held in the Executive or Legislative Branches of government for the State of Florida.

112. District Courts of Appeal such as 2ND DCA improperly and in furtherance of the conspiracy to reduce case loads and increase INCOME to all Appeal Courts joined in the conspiracy to violate the Constitution of Florida as judges of the Appeal Courts were also able to ignore specific cases in furtherance of the conspiracy to deprive litigants of

their Constitutional Rights and increase the coffers of the courts by not reporting Judges and BAR members who were shown to have committed perjury or aided and abetted criminal acts of perjury when filings of litigants exposed such acts or actions.

113. BAR member Officers of the Courts were aware and furthered the secret nature of the violations under threat of LOSS of right to practice law controlled by Justices under the present mandates allowing Supremes to regulate practice of law in Florida and remain accessories before, during or after the fact under the Laws of Florida where perjury is involved.

114. BAR members often prepared and were highly paid for Appeals which the BAR members KNEW would be dismissed by Clerk action violating the Constitution of Florida but no one would blow the whistle and thus each aided in the conspiracy to deprive litigants of their known Civil Rights and Due Process Rights under the Constitutions and Laws of the United States and Florida under Article V Section 3(a).

115. Legislative members who were also BAR members kept the secret from the House and Senate plus Governor to further the conspiracy as each was allowed to obtain fees for appeals and further received BONUS FEE payments as prevailing parties when Clerks issued DECISIONS in lieu of a Quorum of Justices.

116. BAR members working for the office of the Governor KNEW the Justices were violating the Constitution of Florida yet failed to properly advise the Governor of such Constitutional Violations and reporting or WHISTLE BLOWING could result in inability to practice LAW in Florida as such indeed was controlled by the Justices.

117. BAR members and Judges failed to REPORT such known Constitutional violations and conspiracy to proper authorities violating the Florida Rules of Court and Rules Regulating the Florida BAR and the DIRTY LITTLE SECRET kept adding THOUSANDS of victims since 1980 till NOW unchecked.

118. The PRESS were no doubt informed by BAR members that people such as Plaintiffs were DISGRUNTLED LITIGANTS or SENILE OLD FOLKS who did not understand the power or duties of the Judiciary and IF such were true the Governor and Legislature would have shut down such Constitutional Violations immediately.

119. The Office of the Governor has a BAR member who states automatically that when one complains of a Jurist such as BAUMANN that the matter deserves to be heard by the JQC which is false as a CRIME is never investigated by the JQC but Executive Branch Law Enforcement such as FDLE.

120. Legislature membership has a large amount of BAR members who would apparently NEVER reveal the Supremes and Appeal Court judges such as the 2ND DCA were violating the Constitution of

Florida AT WILL on a full time basis based solely upon the WRITTEN INTERNAL OPERATING PROCEDURES of the Supremes.

121. PRESS organizations, LAW ENFORCEMENT AGENCIES and other investigative groups such as the Judicial Qualifications Commission and FLORIDA BAR would be represented by BAR members who quickly would seek to cover up the TRUTH which was so obvious to be unbelievable and thus stayed HIDDEN as no one would investigate, confirm and demand action to correct such an injustice or miscarriage of justice in Florida even when reading the IOP and viewing examples through actions under color of law secretly and documented written policy unchecked since perhaps early 1980's through this very date with the Florida BAR members hiding such violations along with the District Court of Appeal such as the 2ND DCA in a verifiable conspiracy to deprive litigants of known rights and protections of the Constitution and Laws plus Rules of Court for the United States of America and State of Florida.

THE JUDGES WHO VIOLATED THEIR OATHS AND RULES

122. Baumann as presiding jurist within the 13TH Judicial Circuit Court in October of 2002 would start a trial day advising Plaintiffs and Day, Board, COLGI, Martin that Baumann's Spouse was a potential MATERIAL WITNESS to the trial commencing 21 October 2002 and for reasons unknown Baumann failed to RECUSE.

123. Baumann further has failed to report Board, Martin, COLGI, Welch, Day to the BAR and/or proper authorities or any other judge for PERJURY which was plain and verifiable during the four day trial.

124. Baumann controlled the Court Reporter Beth Malone from Berryhill and Associates would see the incompetence of the Court Reporter when provided with copies of FOUR volumes of transcript with huge gaps of testimony missing, stop Plaintiffs from Objecting during Trial while representing themselves, deny Plaintiffs the use of Court Records to impeach Board, Martin, COLGI, deny multiple Motions to Disqualify (more than four from Plaintiffs) and refuse to do ministerial duties under the Rules of Court which deprived Plaintiffs of a fair trial, right to interview jurors suspected of committing perjury prior to being sworn as jurors, openly violating many Rules, Code of Judicial Conduct and CANON 3(e).

125. Supremes wrote the Florida Rules of Court would FAIL AT SELECTING THE PROPER BOARD TO REGULATE COURT REPORTERS and claim INSUFFICIENT FUNDS to commence such Board or Certification of Court Reporters throughout the State leaving litigants at the mercy of unqualified typists and transcribers who were incompetent.

126. Supremes and other Courts in Florida would PAY MILLIONS OF DOLLARS ANNUALLY to uncertified court reporters for transcripts which would be incomplete or the result of incompetent Court Reporters failing to follow the Rules of Court section 13 and since no Board was convened

and no annual certification was required the LITIGANTS who were recorded suffered along with Plaintiffs when the OFFICER OF THE COURT or COURT REPORTER failed to provide a true and complete transcript through negligence or incompetence.

127. ODDLY Plaintiffs reporting same to the Supremes has resulted in the NEW RULES OF COURT for 2004 not having any reference to COURT REPORTER CERTIFICATION OR BOARD which fails in protecting the integrity of Court Reporting and the Supremes no doubt FAILED TO NOTIFY THE GOVERNOR, EXECUTIVE BRANCH OR LEGISLATIVE BRANCH that Court Reporters are not certified nor required to annually be tested for competence and accuracy which DEPRIVED PLAINTIFFS OF A TRUE AND CORRECT TRANSCRIPT under color of law or authority by the failure of the Supremes to convene the BOARD and EXAMINING REQUIREMENTS and the little SECRET ERROR was deleted from the NEW RULES OF COURT quietly without inquiry and confirmation from the other TWO BRANCHES OF GOVERNMENT as the Supremes make Rules which have the effect of LAW!

128. Appeal Court Judges of the 2ND DCA consisting of three judge panel failed to READ each and every document submitted on APPEAL under Case 2D02-5449 when the Initial Brief, REPLY BRIEF and APPENDIX clearly indicated reversible errors of Baumann, perjury of Board, Martin COLGI, Welch.

129. Said 2ND DCA panel also were advised of the refusal by Day and Welch to provide Plaintiff Bundy with critical medical reports and records prior to trial, during trial and after trial, failure to allow Plaintiffs to conduct discovery for APPEAL purposes when such is clearly allowable under the Rules... all which deprived Plaintiffs of a fair trial before a cold and neutral jurist, violated due process and violates the Civil Rights of Plaintiffs under Constitution 1St 2ND 4TH 5TH and 14TH Amendments and Federal Laws under Title 18, 28, 42 U.S. Code.

130. Plaintiffs filed AFFIDAVITS and provided documents from the Case to Sheriff Cal Henderson, Sheriff of Hillsborough County, Florida who reportedly turned over a CRIMINAL INVESTIGATION REPORT to a new deputy in Internal Affairs Derrick Grace who could not interview suspects for reasons unknown, especially since Judge Herbert John Baumann, Jr. reportedly would not talk to any Sheriff Office Investigator until the APPEAL IS FINISHED!.

131. Sheriff Cal Henderson and the SUSPECTED FELON Baumann and Chief Judge Manuel Menendez reportedly were together on the 25TH day of October, 2002 at a personal or POLITICAL meeting attended by most Judges of the 13TH Judicial Circuit Court as the entire Courthouse was closed down for the group to get together for reasons unknown and kept SECRET.

132. Plaintiffs asked Governor John Ellis Bush to invoke the Florida Department of Law Enforcement to investigate the criminal allegations of PERJURY

involving Judges and Officers of the Court PLUS reports were given to the Governor and LEGAL BAR MEMBER STAFF sent back form letters that the Judicial Qualifications Commission was the ENTITY WHO WOULD INVESTIGATE JUDGES when such is incorrect as only the Executive Branch can investigate FELONY ACTS OF JUDGES.

133. Plaintiffs asked the BAR to investigate the Judges and Attorneys for PERJURY and other violations of Rules and Supreme Court or Appeal Court BAR members could not be investigated as that was reportedly under the JQC responsibility.

134. The Judicial Qualifications Commission Executive Director Brooke Kennerly indicated clearly the JQC does not investigate Justices or Appeal Court Judges and all complaints from the Sheriffs Office or others concerning Baumann, Menendez concerning the TRIAL AND CASE 98-8569 have not been reportedly worthy of JQC review as it would appear Plaintiffs are SOLELY dissatisfied with RULINGS or DISCRETIONARY ACTIONS of a Judge in a civil trial and references to FOUR VOLUMES OF TRIAL ERRORS OF COURT were perhaps too much to ask the JQC to look into for an investigation PLUS perjury or suborning perjury or aiding and abetting PERJURY surely could NOT be true or the Sheriff would have arrested someone.

135. **Even the President of the United States and Federal Bureau of Investigation were requested to Investigate the cases and judges plus Board, Martin, COLGI, Welch, Day, Reder who aided or committed the perjury in Violation of Federal Laws but no reports have been forthcoming YET as to any full scale investigation into the obvious.**

136. **NOW Plaintiffs initiate or make a FEDERAL CASE for filling as there is no STATE RELIEF AVAILABLE when Baumann, Day, Reder, Martin, Board, COLGI, Welch, Courts, Attorneys and PUBLIC OFFICIALS refuse to do their sworn duty, violate at will the Constitution and Laws, hide felony conduct or misconduct and judicial REVERSIBLE ERROR and prevent litigants from receiving a fair TRIAL without perjury and errors of the Court or officers of the court destroying the case.**

137. **Judicial misconduct and error must demand a NEW TRIAL and investigation, arrest and conviction of any Officer of the Court, witness or defendant who committed a felony, aided and abetted a felony or concealed a felony during and after the four day trial under Case 98-8569 Division I or any appeal case.**

PARTIES PLAINTIFF AND FACTS

138. **Plaintiff Bundy, also known as Ruth DeLaMater Bundy, DOB 01/06/30 is a native born Floridian and Senior Citizen of the United States residing at 4503 W. North A Street, Hillsborough County, Florida 33609-2028 residing along with Plaintiff Ralph Charles Whitley, Sr., at 4503 W. North A**

Street, Tampa, Hillsborough County, Florida 33609-2028 and during all times relevant to this Complaint and all other cases cited herein and continues residing and working within Hillsborough County, Florida.

139. Plaintiffs Bundy and Whitley filed a complaint in 1963 against many defendants mentioned above under All American plus COLGI, Board, Martin under Case 93-11695 CC 13th Judicial Circuit Court, Hillsborough County, Florida.

140. Case 93-11695 CC was dismissed without prejudice and Case 97-10682 CC was assigned when refilled until that too was dismissed in 1997 by a County Court Judge because the case actually belonged in Circuit Court and such fact was withheld from non attorney Plaintiffs for over 4 long years of litigation by Day and Reder.

141. Case 98-8569 Division I took over the case from County Court and in October of 2002 a trial commenced which brings forth this Complaint and all appeals filed under 2ND DCA under Case 2D02-5449 and Supremes under Case SC04-480 which prompt the Complaint and demand for jury trial PLUS seeking declaratory and injunctive relief which is the basis of this filing.

142. Plaintiff Whitley DOB 11/30/40 is a native born Floridian residing at all times pertinent along with Plaintiff Bundy at 4503 W. NORTH A Street, Tampa, Hillsborough County, Florida 33609-2028 as well as Senior Citizen of the United States residing and working within Hillsborough County, Florida.

143. Plaintiff Whitley and Plaintiff Bundy re-adopts and re-alleges all of the facts contained in paragraphs 1 through 142 above as TRUTH IN A COMPLAINT MADE TO THIS FEDERAL COURT.

144. Both Plaintiffs represented themselves in the trial which commenced on October 21, 2002 and ended October 24, 2002 which prompted the Appeals and this Complaint.

145. Plaintiffs paid over $3,500.00 for a 4 volume transcript of the trial of October 2002 wherein Baumann, Jr. ("Baumann") presided and Attorney John Wilkins Day ("Day") represented all defendants from All American entities, COLGI, INC. "COLGI", James H. Board ("Board") Steve Martin ("Martin") plus Day used Dr. Bruce Welch, M.D. ("Welch") as an expert defense witness during trial.

146. Following the trial on Case 98-8569 Division I Plaintiffs filed numerous Motions and requests for relief together as combined since the Court has allowed same on all cases and following the replies received under color of law or authority filed a timely Appeal exposing Perjury and ERRORS of the Court plus notification of the Governor John Ellis Bush, Sheriff Cal Henderson, State Attorney Mark Ober, State Attorney General Charlie Crist and President George W. Bush and FBI plus FDLE that a suspected felony conspiracy had been exposed.

147. Plaintiffs filed an Appeal with the Second District Court of Appeal of Florida and following replies under color of law or authority received filed a timely appeal with the Supreme Court of Florida and additional complaints of aiding and abetting criminal - conspiracy by jurists, officials and attorneys and defendants/appellees/respondents with the HCSO, FBI and FDLE.

148. Plaintiffs attempted to comply with ODD requests of the Clerk of the Supreme Court of Florida and noticed immediately that it appeared the Constitution and Laws of Florida were being violated under color of law or authority and that others now were seeking to hide felony conduct of not only jurists, Officers of the Court but BAR members and their clients or witnesses as a verifiable perceived conspiracy developed rapidly since trial testimony in October 2002 and continues to this very date depriving Plaintiffs or not only a fair jury trial, proper verdicts, proper filings, proper review by judges or justices but generally violates civil rights known protected Federally plus aids and abets felony conduct and seeks to hide same from discovery or disclosure along with proof denied when demanded or subpoenaed which violates the very RULE OF LAW and involves even the Supreme Court of Florida Justices and Clerk which is properly reported herein not only as a matter of RIGHT but DUTY under the Laws both State and Federal.

DEFENDANTS

149. The Supreme Court of Florida, ("Fla.Sct.") or ("Supremes") Judicial Branch of Florida, needs no introduction and each justice is included herein by such reference in both Official and individual capacity as defendants properly named ("Armstead"), ("Wells"), ("Pariente"), ("Lewis"), ("Quince"), ("Cantero"), ("Bell") and identified as defendants along with the Clerk of the Supreme Court of Florida ("Hall") who need no further introduction to this court.

150. The Supreme Court of Florida, by and through the Rules of Court, failed to follow the Rules and cause a COURT REPORTER BOARD to be formed thus all reporters are not certified yet Officers of the Court.

151. Supreme Court had a duty and obligation to form such a Board under the Rules and failed to do so at the detriment of Plaintiffs who received an incorrect and incomplete transcript of a four day trial for appeal purposes and was unable to provide a true transcript to any appeal level courts.

152. Supreme Court of Florida, by and through the Chief Justice and other Justices have caused to be put in action a plan which violates the Constitution of Florida Article V Section 3(a) allowing cases NOT TO BE HEARD BY ANY JUSTICE OR QUORUM OF JUSTICE which violates the Constitution of Florida, Laws of Florida and Federal Constitution and Laws depriving Bundy

and Whitley of due process and redress of grievances plus thousands of other litigants have been deprived of same civil rights protected Federally under color of law or authority.

153. The Supremes, as BAR Members and Government Officials of the Judicial Branch were reported to Governor John Ellis Bush, the Judicial Qualifications Commission and FLORIDA BAR for such failure to follow the Constitutional MANDATORY REQUIREMENTS THAT A QUORUM OF JUSTICES DECIDE EVERY CASE as stated clearly in the Constitution of Florida Article V Section 3(a).

154. Supremes, through an Internal Operating Procedure have violated openly the Constitution of Florida and Laws of Florida under color of law or authority allowing the Clerk Hall and other assistant Clerks to DENY ANY CASE, PETITION OR APPEAL without one single Justice looking at the documents or file, such violates the Constitution of Florida Article V Section 3(a) and deprives Plaintiffs of due process, access to the courts and avenue to submit filings seeking redress of grievances to the Judicial Branch of Government not to mention civil rights violations under Titles 18, 42, 28 of the United States Code referenced above including Title 42 U.S. Code Sections 1981-1988.

155. The Judicial Qualification Commission reportedly believes that the Justices may violate the Constitution delegating the authority of the FULL SUPREME COURT to a mere Clerk which is false and done under color of law or authority and must

be exposed to the Legislature of Florida who are charged by law and constitution with making laws.

156. Plaintiffs have properly reported the Supremes to the BAR, JQC, Governor, Attorney General and President of the United States for such violations as a matter of DUTY AND RIGHT.

157. The District Court of Appeal Second District of Florida (2ND DCA") Judicial Branch of Florida identified above and included herein through such reference, needs no introduction and each judge of the three judge panel ("Casanueva") ("Northcutt"), ("Salcines") plus the Chief Judge ("Altenbernd") are properly identified as Second District Court of Appeal along with the Clerk ("James Birkhold").

158. The three judge panel Casanueva, Northcutt, Salcines, Clerk Birkhold and Chief Judge Altenbernd have a duty and obligation to report any jurist or BAR member violating the Rules of Court to the Judicial Qualification Commission and/or BAR yet failed to do so detrimental to Plaintiffs and their attempt to seek justice.

159. The 2ND DCA three Judge panel, Clerk and Chief Judge have a duty and obligation to report any jurist or BAR member violating the Rules of Court to the Florida BAR and failed to do so under color of law or authority detrimental to Plaintiffs and their attempt to seek justice concerning a conspiracy and perjury.

160. The 2ND DCA three Judge panel, Clerk and Chief Judge have a duty and obligation to report any jurist or BAR member committing or reported to

have been committing a FELONY involving perjury to law enforcement agencies of the State or Federal Government and failed to do so under color of law or authority damaging Plaintiffs and hiding the conspiracy.

161. Baumann, besides being sued in Official Capacity was the presiding jurist and BAR member in Case 98-8569 Division I and still is on the bench in the 13TH Judicial Circuit Court of Hillsborough County, Florida.

162. Baumann under color of law or authority failed to do his solemn mandatory *ministerial* obligations as a jurist and thus deprived Plaintiffs of a right to jury trial before a cold and neutral jurist and jury by denying the right to Object while representing themselves as is proved in Transcripts plus reported to the Appeal courts.

163. Baumann started the trial on day of trial before calling in the prospective jury by stating something similar to: *"Ladies and Gentlemen we seem to have a problem. I have just noticed my spouse is listed as a potential material witness in this case and although I consider her involvement DE MINIMIS I will leave the room and let you decide if I stay"..."* Then indicated something like "if anyone should mention her name or call her as a witness I must recuse myself..." or similar statements then and still refused to make the statement or similar statement part of the official

records for appeal purposes *knowing full well the court reporter did not include the statement in the trial transcript* and consideration by any Appeal court Violating the Rules of Court and CANON 3E under color of law or authority detrimental to the case and appeal of Plaintiffs.

164. Baumann *knew the court reporter had NOT TRANSCRIBED HIS COMMENTS ABOUT HIS WIFE OR SPOUSE BEING A MATERIAL WITNESS* and other sections of the trial itself depriving Plaintiffs of a proper appeal transcript and repeatedly considered multiple Motions for Disqualification in violation of Chapter 38.10 Florida State Statutes which mandates other judges must rule on successive motions for disqualification.

165. Bauman allowed NO HEARINGS ON ISSUES SUCH AS INTEVIEW WITH JUROR MOTIONS in violation of specific known Rules of Court *which were ministerial and not discretionary but mandatory.*

166. Baumann knew comments and other sections would prevent any appeal court from properly reviewing the appeal yet Baumann stayed silent and did not admit or make this fact known to the higher court, judges or chief judge depriving Plaintiffs of the transcript needed to prove motions for disqualification were supported and Day plus Reder knew and hid same along with Baumann to this date as part of an ongoing conspiracy to cover up ERRORS, violations of the Rules and Constitution Protected Rights of Plaintiffs plus criminal acts involving Conspiracy and Perjury.

167. Baumann under color of law or authority deprived Plaintiffs of right to bring forth court records to impeach witnesses testifying falsely in court and Day knew this was improper and wrong yet stayed silent even up to this date claiming the court did NOTHING WRONG and Reder joins in this conspiracy to hide the facts of Perjury under Oath even to this very date.

168. Baumann deprived Plaintiffs of the right to call witnesses from the City and County to testify in court about licensure of defendants which was relevant and material and the Rules of Court and Statutes make such right MANDATORY and part of the ministerial duties known full well to Day who did nothing.

169. Baumann deprived Plaintiffs of right to interview jurors or have a hearing mandatory and ministerial for any jurist under court rules, deprived Plaintiffs of right to receive evidence necessary for appeal, deprived Plaintiffs of right to seek depositions for appeal purposes all detrimental to the case and appeals and attorney Day and Reder knew this was wrong and stay silent even to this date about same claiming Baumann did nothing wrong aiding through conspiracy protection of the perjury issue by not reporting anything to any judge or law enforcement official or official of government.

170. Baumann refused to follow Florida Evidence Code and Rules of Court allowing Bundy to have read a portion of a deposition read out of context which Bundy felt required clarification to the jury as she

desired several other words in the same document to be read to the jury and Day and Reder knew and remain silent even to this day about the ERRORS, perjury and rule violations.

171. Baumann under color of law or authority refused to allow Bundy or Whitley to object while on the witness stand representing themselves and Day knew and remains silent along with Attorney Reder failing to report the judge to any senior judge, JQC, BAR or law enforcement for violating rules and perjury conspiracy which is becoming more evident when reviewing filings in all cases compared to trial testimony.

172. Baumann on best belief sent a bailiff/detention deputy Ken Jones to the table of Plaintiffs TWICE when the jury was out of the Courtroom to tell them "You are doing an excellent job. Do NOT argue with the judge!" and such comments from the armed sheriff or law enforcement official prevented Plaintiffs from arguing the case properly in front of the jury fearing arrest or worse.

173. Baumann had extrinsic EVIDENCE from review of court filings and talking with a spouse and medical doctor Shelly P. Baumann, that this particular spouse could not have possibly treated or examined Bundy.

174. Baumann knew what the spouse did yet allowed Welch to commit perjury involving Dr. Shelly P. Baumann.

175. Baumann knew of he perjury and went along with other defendants COLGI, Board, Martin and even Day perjury without action under color of law or authority and Day plus Reder still remain silent even to this date as a part of said conspiracy and perjury which they encouraged to win a case.

176. Baumann had a duty and obligation to disqualify himself in Case 98-8569 Division I as his spouse was a potential material witness Under CANON 3(e) and Baumann heard perjury under oath about his own spouse by Welch which the jury took as truth and Plaintiffs were unable to counter such lies and yet Baumann remained SILENT even to this day.

177. Baumann a suspect/witness/conspirator has reportedly, under color of law or authority, declined to speak with Detective Derrick Grace from the Hillsborough County Sheriff's Office conducting a criminal investigation or following a complaint citing "I cannot talk about anything to do with this case until all appeals are over in the case!" as an excuse knowing full well of the perjury of Welch, Day, COLGI, Board, Martin and failed to report anyone to the local law enforcement officials of such perjury which is a felony and furthers the conspiracy as an accessory after the fact.

178. Interestingly Baumann is a material witness and felony suspect involving an alleged conspiracy with two BAR members "Day" "Reder" and Welch and Baumann seeks under color of law or authority to NOT be interviewed or interrogated concerning his involvement in a felony or aiding and abetting a felony plus fails in a duty and obligation to report such felony to authorities and judiciary as was

reported by Plaintiffs to law enforcement, Governor, President and Attorney General, Supremes, 2ND DCA, Chief Judge Menendez as a duty and obligation mandatory under the State and FEDERAL LAWS under Title 18 U.S. Code PERJURY sections.

179. Baumann as witness and conspirator has personal knowledge that the comments under Oath from "Welch" "Day" "Board" "Martin" and COLGI by and through Board was perjury and Baumann as a member of the Judiciary and BAR seeks to NOT take any action which is contrary to the Laws of Florida and Rules of Court as will be identified in specific paragraphs above and counts to follow and clearly point to a conspiracy between officers of the Court and fellow BAR members depriving Plaintiffs of a true verdict in a civil case, violation of civil rights, violation of Due Process, violation of EQUAL PROTECTION OF THE LAWS under the Constitution and also involving the right to Trial By Jury where PERJURY ruled.

180. Welch, a forensic psychiatrist and expert witness working in Saint Petersburg Florida at an office controlled by Day testified under Oath falsely and still refuses to release proof positive evidence of perjury is a practicing psychiatrist who works in Saint Petersburg, Florida with an office at 535 Central Avenue and pays rent to the owners who have "Day" representing them and also housed in the same building.

181. Welch was brought in to the Case 98-8569 Division I by "Day" who knew the expert was lying like a rug under oath during trial and Day failed to report his Welch's perjury or that of Board, Martin, COLGI, to WIN the case after being paid a lot of money from the Insurance Company who would have had to pay any judgment to Plaintiffs who asked for SEVENTEEN MILLION DOLLARS EACH as damages.

182. Welch and Day discussed and concocted the perjurious testimony prior to and after trial and each failed to notify the court of the falseness and perjury nor did any of them admit or RECANT said perjury to this date.

183. Day has continually withheld, along with Dr. Welch the medical records and full reports and recordings of two days of PSYCHIATRIC examination improperly and secretly demanded of Bundy which lasted 4 hours each day and were recorded.

184. Welch failed to comply with a subpoena properly issued after trial to produce said documents and records claiming "Attorney Work Product" privilege or APA privilege to redact questions used by Bundy to answer psychiatric examinations written section or other papers under color of law or authority.

185. Welch provided REDACTED documents and portions of TAPE RECORDINGS rather than all visible contents of documents and ALL TAPE RECORDINGS WHICH PROVE PERJURY for Plaintiffs and Day KNOWS the material clearly indicates PERJURY by his star perjurer Welch.

186. Day knew of the failure to Welch to comply with the lawful subpoena to produce the documents and tape recordings and aids and abets through conspiracy not only perjury but failure to comply with a court subpoena to product documents even Day holds under color of law or authority in his own office and control.

187. Day knew along with Reder Board, Martin, COLGI and even Welch committed PERJURY during trial and before and after trial yet failed to notify the court, opposing parties, any judge or law enforcement official thus joins Board, Martin and even Welch and Baumann, Jr. in a conspiracy to hide such perjury known to exist under color of law or authority.

188. Day had prepared worded and even notarized documents filed by his clients or knew of documents notarized by Reder containing many answers to interrogatories in case 93-11695, 97-10682 and affidavits plus filings when compared to trial testimony clearly indicated PERJURY by Board, Martin COLGI, and Welch which remains a secret.

189. Day has known of the destruction of evidence or failure of Board, Martin, COLGI, Welch to produce evidence which would indicate clearly PERJURY as charged or committing perjury under oath.

190. Day, aided by attorney Reder has counseled Board, Martin, Welch to LIE UNDER OATH and thought all counseled could stay out of issues considered MATERIAL but the conspirators slid through anyway and Day has sought to keep the truth from all judges and law enforcement alike aiding in this conspiracy hoping no one would look into the allegations of two senior citizens who are not BAR members.

191. Day knows full well the proper review of ALL documents and filings of cases 93-11695 CC and 97-10682 CC plus 98-8569 Division I directly relate to material issues and under PERJURY case law his the conspirators repeatedly lied under oath during the trial in October 2002 and there is no escaping the FACT which is being hidden and can cause all concerned to pay a great price rather than RECANT THE PERJURY AND TESTIMONY and the time has lapsed to make the correction or RECANTATION and an investigation is ongoing.

192. Day knew Plaintiffs had requested IMMUNITY citing a Mark Marks, P.A. case to allow the Attorneys and Jurists NOT to be charged with a conspiracy or perjury YET Day still believes no one will ever investigate him or his clients let alone a jurist in Hillsborough County, Florida.

193. BAR members such as Day and Reder will tout to all law enforcement that the Plaintiffs are disgruntled and challenging the RULINGS of the Court in error when such is far from the truth and still seeks to hide the conspiracy and perjury to this date.

194. Perjury is Perjury and a Felon is a Felon but Day would lead everyone who is a BAR member to believe that there could not possibly be any truth to the allegations of PERJURY or the Sheriff WOULD HAVE ARRESTED SOMEONE.

195. Plaintiffs submit that the PROOF is in the hands of the law enforcement community and those BAR members in that law enforcement community risk a great price joining in the attempt to HIDE THE TRUTH ABOUT PERJURY so investigation and incarceration are obviously on the horizon as there is a long time ahead before the Statute of Limitations RUNS OUT for perjury in October of 2002.

196. Reder initially representing all defendants COLGI, INC., All American and other entities sued plus Defendant Board, Martin, COLGI, INC. knew of the perjury before trial, did not participate in the trial of October 2002 and allowed Day to take over, failed to notify the judge, any judge, any law enforcement official or opposing parties in collusion and conspiracy with Day and others under color of law or authority became an accessory to perjury and other felonious conduct plus joined others in a verifiable conspiracy to violate the rights of Plaintiffs.

197. Reder has notarized, prepared and coached his clients to state specific things in response to requests make in the form of interrogatories and answers required to admit or deny prior to trial and even in Affidavits filed yet Reder forgot the documents were still available for investigation and impeachment purposes.

198. Reder KNEW that Board, Martin, COLGI were concealing evidence or records which were requested for discovery and failed to act properly as an officer of the court and BAR member plus joined willingly in a conspiracy to hide such conduct and commit perjury.

199. Reder knew of the perjury of everyone charged herein, counseled conspirators and suspects identified herein such as Martin no doubt on HOW TO LIE and once the lie was told Reder seeks to hide the facts from the Court, Judges, Law Enforcement BAR and Judiciary as part of the conspiracy with Attorney Day to keep the case a WIN so he may seek payment of additional fees and costs for his silence on perjury and conspiracy.

200. Reder is a material witness and conspirator who is under investigation and will no doubt be aware of the full criminal investigation being initiated by the HCSO and FDLE but Plaintiffs submit the FBI may be knocking on doors shortly as Federal Law has been violated and an investigation requested.

201. Berryhill and Associates, as Official Court Reporters, by and through Beth A. Malone, failed to properly transcribe the trial of October 21 through 24 of 2002, through incompetence and error sold and provided an incomplete transcript which argue would support destroyed the ability of Plaintiffs to obtain proper review of consideration for a NEW TRIAL when many hours of trial testimony were not recorded verbatim in violation of Florida Rules of Court as Beth A. Malone failed in her duties to properly transcribe the trial and the owners of

Berryhill and Associates fully realize their reporters ar not all competent and annually certified by any Court Reporter Board as such does NOT EXIST and the Supreme Court of Florida is fully aware that the BOARD was never created thus no reporter is certified annually.

202. Beth A. Malone, Court Reporter for the Trial of October 2002 failed to follow the Rules of Court and properly transcribe verbatim the words of the trial and Plaintiffs paid Berryhill and Associates for an incomplete transcript which appeared indicating total incompetence on the part of the reporter and damaged Plaintiffs in the appeal process.

203. Beth A. Malone was the center of attention of Bailiff/Detention Deputy Ken Jones who massaged the attractive ladies shoulders in between sessions openly in view of Day, Martin, Board, Bundy, Whitley, Court Clerk and any visitor to the courtroom.

204. Beth A. Malone would NOT include comments from Baumann in the transcript NOR allow specific comments to be transcribed and neither Plaintiff would authorize NO TRANSCRIPT PORTIONS TO BE NOT COPIED nor would the court or Day indicate such was not to be transcribed and included in the Trial Transcript.

205. Board, as owner of COLGI, INC. a Florida Corporation for Profit lives and works within Hillsborough County, Florida.

206. Board and COLGI will be served by and through Day unless process is refused then an investigator will determine the current address of Board.

207. Martin lives and to best information and belief works in Hillsborough County, Florida.

208. Martin will be served by and through Reder who still represents Martin in all cases.

209. FIRST CAUSE OF ACTION VIOLATION OF CIVIL RIGHTS citing the U.S. Constituion Amendments I, II, III, IV, V and XIV; 42 U.S. Code Sections 1981 AGAINST ALL DEFENDANTS

210. Plaintiffs incorporate paragraphs 1 through 208 as though fully stated herein.

211. By maintaining and enforcing ERRORS, ACTIONS AND ACTS under color of law or authority amounting to violations of Title 42 U.S. Code Sections 1981-1988 defendants denied Plaintiffs of rights, privileges and immunities as guaranteed by the First, Second, Fourth, Fifth and Fourteenth Amendments to the Constitution of the United States through denying Due Process and Civil Rights during Trial on October 21-24 of 2002 through this very date and in furtherance of a verifiable conspiracy to violate the civil rights of Plaintiffs involving Defendants Board, Martin, COLGI, INC., Baumann, Day and Welch.

212. Plaintiffs have been damaged and demand judgment for such violations seeking actual, general, special, compensatory damages against all

NON JUDICIARY OR JUDICIAL BRANCH DEFENDANTS jointly and severally in an amount of SEVENTEEN MILLION DOLLARS IN U.S. CURRENCY.

213. Plaintiffs further seek declaratory and injunctive relief against judiciary and judicial branch defendants deemed proper and just.

214. Further Plaintiffs seek a declaratory judgment that members of the Judiciary and Judicial Branch have committed ERRORS OR VIOLATIONS worthy of granting a NEW TRIAL for Plaintiffs on Case 98-8569 Division I, 13TH Judicial Circuit Court in and for Hillsborough County, Florida.

WHEREFORR Plaintiffs demand judgment against all non judicial Defendants jointly and severally in the amount of SEVENTEEN MILLION DOLLARS for damages as indicated in the FIRST CAUSE OF ACTION plus the costs of this action including fees and such other relief deemed proper and just.

SECOND CAUSE OF ACTION – Title 42 U.S. Code Section 1983: CIVIL ACTION FOR DEPRIVATION OF RIGHTS AND Title 1985 CONSPIRACY TO INTERFERE WITH CIVIL RIGHTS AND DEPRIVATION OF RIGHTS OF PLAINTIFFS [AS AGAINST BOARD, MARTIN, WELCH, DAY, REDER]

215. Plaintiffs incorporate paragraphs 1 through 208 as though fully stated herein.

216. Plaintiffs submit that defendants by maintaining and assisting in an unlawful and malicious Conspiracy to Deny Plaintiffs civil rights and due

process and equal protection of the laws and Constitutional Amendments and the due course of justice was impeded as each committed or hid such conspiracy and Perjury and violations of the Florida Rules of Court identified herein willfully and maliciously joined each other and committed PERJURY under oath in official Trial which lasted four full days and damaged the entire Case of Plaintiffs resulting in a miscarriage of justice and false Verdict which was the desired result of the evil formation of the conspiracy between each defendant who acted in concert to lie under oath on repeated occasions in furtherance of the conspiracy and did cause damage to Plaintiffs and the case in chief of Plaintiffs.

217. As a direct and proximate result of said conspiracy Plaintiffs were damaged emotionally and personally as well as due process rights destroyed and the due course of justice impeded

218. Plaintiffs have been damaged and demand judgment for such violations seeking actual, general, special, compensatory damages against all NON JUDICIARY OR JUDICIAL BRANCH DEFENDANTS jointly and severally in an amount of SEVENTEEN MILLION DOLLARS IN U.S. CURRENCY.

WHEREFORE Plaintiffs demand judgment as indicated against each non judicial defendant in the amount of SEVENTEEN MILLION DOLLARS jointly and severally in the SECOND CAUSE OF ACTION plus the costs of this action including fees and such other relief deemed proper and just.

THIRD CAUSE OF ACTION VIOLATIONS OF TITLE 42 U.S. CODE SECTION 1986: REFUSING OR NEGLECTING TO PREVENT [Baumann, Supremes, 2ND DCA]

219. Plaintiffs incorporate paragraphs 1 through 208 as though fully stated herein.

220. Plaintiffs submit the Supreme Court of Florida and Second District Court of Appeal by and through the Internal Operating Procedure violated the Constitution of the State of Florida Article V Section 3(a) pursuant to an official POLICY WRITTEN AND APPROVED BY THE CHIEF JUSTICE AND JUSTICES OF THE SUPREME COURT OF FLORIDA in which the Court knowingly, recklessly with gross negligence under color of law or authority failed to protect Plaintiffs and other litigants right to petition for redress of grievances or access to the Courts depriving Plaintiffs of Constitutional and Statutory rights, privileges and immunities.

221. Plaintiffs submit the Supreme Court IOP allowed the Clerk to DENY OR DISMISS CASES when the Constitution called for a QUORUM OF FIVE JUSTICES FOR EACH DECISION and such violated the Constitution on a regular basis perhaps involving some 30,000 litigants since 1980.

222. As a direct and proximate result of the intentional violations described above and by refusing or neglecting to prevent such violations of the Constitution safeguards known by the Court and BAR members Plaintiffs have been damaged and suffered loss of funds for an appeal and filing plus mailing and photo copying fees.

223. The Chief Justice and Clerk both had the opportunity to prevent or aid in the prevention of the commission of said violation under color of law or authority pursuant to the written policy and had the power to prevent or aid in preventing the commission of said wrongs, could have done so by reasonable diligence, and knowingly, recklessly, or with gross negligence failed or refused to do so.

WHEREFORE Plaintiffs seek a declaratory judgment against the Supreme Court of Florida and District Court of Appeal Second District that the acts and actions amounted to an unconstitutional delegation of authority under color of law or authority and any other relief deemed proper and just.

THIRD CAUSE OF ACTION- VIOLATION OF FLORIDA CIVIL RIGHTS ACT AND INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AGAINST ALL DEFENDANTS EXCEPT THE SUPREME COURT AND SECOND DISTRICT COURT OF APPEAL AND JUDGE HERBERT JOHN BAUMANN, JR.

224. Plaintiffs incorporate paragraphs 1 through 208 as though fully stated herein.

225. Plaintiffs submit all defendants have violated the Federal Civil Rights Act and Title 42 U.S. Code Sections 1981-1988 plus Title 18 U.S. Code Sections 241, 242 and 1621 through a conspiracy in which (a) all had an object to be accomplished; (b) all had an agreement on the object or course of action; (cc) all performed one or more unlawful overt acts to further the conspiracy and perjury; and (d) Plaintiffs were damaged EMOTIONALLY, personally and in

property by a direct result of those extreme and outrageous acts of defendants.

226. Plaintiffs submit that in furtherance of their objective defendants did two or more overt acts involving lying under oath, fabricating untruths and presenting same to the jury and presiding judge which cause Plaintiffs to suffer mental pain and anguish, severe emotional trauma, embarrassment, anger and humiliation by such lies which the Court would not allow Plaintiffs to challenge with court records.

227. As a direct and proximate result of such acts and actions Plaintiffs have been damaged physically, emotionally and demand compensatory damages of SEVENTEEN MILLION DOLLARS jointly and severally from each defendant and any other relief deemed proper and just.

WHEREFORE Plaintiffs demand judgment as indicated herein for SEVENTEEN MILLION DOLLARS against each non judicial defendant jointly and severally in the THIRD CAUSE OF ACTION plus the costs of this action including fees and such other relief deemed proper and just.

FOURTH CAUSE OF ACTION TITLE 42 U.S. CODE SECTION 1983 – CIVIL ACTION FOR DEPRIVATION OF RIGHTS AS AGAINST ALL DEFENDANTS EXCEPT THE SUPREME COURT OF FLORIDA, SECOND DISTRICT COURT OF APPEAL, BAUMANN

228. Plaintiffs incorporate paragraphs 1 through 208 as though fully stated herein.

229. **Plaintiffs submit that all defendants Board, Martin, COLGI, INC., Day and Reder plus Welch subjected or caused Plaintiffs to be subjected to the deprivation of rights, privileges or immunities secured by the Constitution and laws by a willful and evil conspiracy to cause the Court including a jurist Herbert John Baumann, Jr and other higher courts to ignore the claims of Plaintiffs concerning denial of due process and civil rights violations or FRAUD UPON THE COURT caused by Defendants concerted efforts to hide the truth from the** Judge and Jury **during** and after a trial by Jury which resulted in a fraudulent verdict based upon such perjury or acts **amounting** to **FRAUD** UPON THE COURT.

230. As a direct and proximate cause of such **conspiracy** Plaintiffs were damaged **emotionally, personally** and **financially and continue** to be damaged to this very day.

231. Plaintiffs seek TRIAL BY JURY on all Counts in this Complaint.

WHEREFORE Plaintiffs seek compensatory damages in the amount of SEVENTEEN MILLION DOLLARS against each defendant named herein jointly **and** severally and any other relief deemed proper and just.

VERIFICATION BY PLAINTIFFS

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 21^{sT} day of June, 2004

/SS/
Ruth D. Bundy
Petitioner, Witness, Victim
4503 W. North A. Street
Tampa, Florida 33609-2028

/SS/
Ralph Charles Whitley, Sr.
Petitioner, Witness, Victim
PMB 303
1302 S. Dale Mabry Hwy.
Tampa, Florida 33629-5011

APPENDIX R

Fridovich v. Fridovich, 598 So.2d 65, 17 Fla. L. Weekly S210 (1992).

Supreme Court of Florida.
Anthony Steven FRIDOVICH, Petitioner,
v.
Edward FRIDOVICH, Respondent.
No. 77555.

April 2, 1992.
Rehearing Denied June 9, 1992.

Plaintiff brought suit against his brother, alleging defamation, intentional infliction of mental distress and malicious prosecution, arising out of alleged conspiracy to have him falsely arrested, indicted, convicted and sentenced for first-degree murder of his father. The Circuit Court, Broward County, Estella Moriarty, J., dismissed complaint, and plaintiff appealed. The District Court of Appeal, 573 So.2d 65, affirmed in part, reversed in part and remanded, and certified question. The Supreme Court, Barkett, J., held that defamatory statements voluntarily made by private individuals to police or state's attorney prior to institution of criminal charges are presumptively qualifiedly privileged.

Question answered.

McDonald, J., filed dissenting opinion.

West Headnotes

[1] Libel and Slander 237 ⚿38(1)

237 Libel and Slander
237II Privileged Communications, and Malice Therein
237k35 Absolute Privilege
237k38 Judicial Proceedings
237k38(1) k. In General. Most Cited Cases

Libel and Slander 237 ⚿51(2)

237 Libel and Slander
237II Privileged Communications, and Malice Therein
237k51 Existence and Effect of Malice
237k51(2) k. Statements Made in Judicial and Official Proceedings. Most Cited Cases
Defamatory statements made in course of judicial proceedings are absolutely privileged, and no cause of action for damages will lie, regardless of how false or malicious statements may be, so long as statements are relevant to subject of the inquiry.

[2] Libel and Slander 237 ⚿101(4)

237 Libel and Slander
237IV Actions
237IV(C) Evidence
237k101 Presumptions and Burden of Proof
237k101(4) k. Privilege. Most Cited Cases
Defamatory statements voluntarily made by private individuals to police or state's attorney prior to institution of criminal charges are presumptively qualifiedly privileged.

[3] Libel and Slander 237 ⚿38(1)

237 Libel and Slander
237II Privileged Communications, and Malice Therein
237k35 Absolute Privilege
237k38 Judicial Proceedings
237k38(1) k. In General. Most Cited Cases
Defamatory statements made under state attorney's investigatory subpoena are encompassed within judicial proceeding and thus absolutely privileged.

[4] Damages 115 ⚿57.49

115 Damages
115III Grounds and Subjects of Compensatory Damages
115III(A) Direct or Remote, Contingent, or Prospective Consequences or Losses
115III(A)2 Mental Suffering and Emotional Distress
115k57.49 k. Privilege or Immunity; Exercise of Legal Rights. Most Cited Cases
(Formerly 115k50.10)
If sole basis of complaint for emotional distress is a privileged defamatory statement, then no separate cause of action exists; regardless of privilege, plaintiff cannot transform defamation action into claim for intentional infliction of emotional distress simply by characterizing alleged defamatory statements as outrageous.

[5] Damages 115 ⚿57.49

115 Damages
115III Grounds and Subjects of Compensatory Damages
115III(A) Direct or Remote, Contingent, or Prospective Consequences or Losses
115III(A)2 Mental Suffering and Emotional Distress
115k57.49 k. Privilege or Immunity; Exercise of Legal Rights. Most Cited Cases
(Formerly 115k50.10)
Successful invocation of defamation privilege will preclude cause of action for intentional infliction of emotional distress if sole basis for latter cause of action is the defamatory publication, but privilege will not prevent recovery upon separate causes of action which are properly pled upon existence of independent facts.

***65** Jeffrey D. Fisher, Palm Beach, and Scott Trell, Miami, for petitioner.
Ronald J. Russo and Linda Julin McNamara, Glenn, Rasmussen, Fogarty, Merryday & Russo, Tampa, for respondent.
BARKETT, Justice.
We have for review *Fridovich v. Fridovich*, 573 So.2d 65, 72 (Fla. 4th DCA 1990), in which the district court certified the ***66** following question of great public importance: [FN1]

FN1. We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

Are statements made by a private individual to an investigating officer or a prosecutor preliminary to the filing of a criminal charge absolutely privileged so as to avoid liability for defamation even when the statements are false and made with actual malice?

We answer the certified question in the negative for the reasons stated below.

On December 4, 1981, Martin Fridovich was shot and killed by his eighteen-year-old son, Edward Fridovich. After an extensive investigation, law enforcement authorities concluded that the shooting was accidental. No charges were filed and the investigation was closed.

Thereafter, according to the allegations of the complaint, Anthony Fridovich, Edward's brother, became dissatisfied with Edward's status as personal representative of their father's multi-million-dollar estate, and initiated a conspiracy among family members to have Edward charged for the intentional killing of Martin Fridovich. The complaint further alleges that Anthony purchased a stress analyzer to determine which of the conspirators could lie most convincingly. Erica Fridovich, Edward's sister, and her former husband, Michael Giannoutsos, were chosen to encourage the authorities to reopen the investigation by making false statements to investigators for the Plantation Police Department and members of the Broward County State Attorney's Office.

As a result of these actions, the investigation was reopened and Edward was indicted for first-degree murder in the death of his father. A jury found him guilty of the lesser-included offense of manslaughter. After the trial, Erica Fridovich and

Michael Giannoutsos recanted and admitted that their in-court testimony had been false. After a reversal on other grounds, Edward was retried for manslaughter and convicted again without Erica and Michael's testimony.

Edward sued Anthony and the other conspirators for defamation, intentional infliction of mental distress, and malicious prosecution. The trial court dismissed the complaint and the district court affirmed the dismissal of the counts for defamation and malicious prosecution, but reversed the dismissal of the intentional infliction of emotional distress claim.[FN2]

> FN2. Edward does not contest the dismissal of the count for malicious prosecution.

[1] The law in Florida has long been that defamatory statements made in the course of judicial proceedings are absolutely privileged, and no cause of action for damages will lie, regardless of how false or malicious the statements may be, so long as the statements are relevant to the subject of inquiry. *Myers v. Hodges*, 53 Fla. 197, 209, 44 So. 357, 361 (1907). The primary question we must answer in this case is whether defamatory statements made to the authorities *prior* to the initiation of criminal proceedings are absolutely privileged as within the course of judicial proceedings.

The scope of the privilege was outlined by this Court's opinion in *Ange v. State:*

This rule of privilege as applied to statements made in the course of judicial proceedings is not restricted to trials of actions, but includes proceedings before a competent court or magistrate in the due course of law or the administration of

justice which is to result in any determination or action by such court or officer. This privilege extends to the protection of the judge, parties, counsel and witnesses, *and arises immediately upon the doing of any act required or permitted by law in the due course of the judicial proceedings or as necessarily preliminary thereto.*

98 Fla. 538, 540-41, 123 So. 916, 917 (1929) (emphasis added).

The same rule is found in the *Restatement (Second) of Torts* section 587 (1977):

A party to a private litigation or a private prosecutor or defendant in a criminal prosecution is absolutely privileged to publish defamatory matter concerning ***67** another *in communications preliminary to a proposed judicial proceeding,* or in the institution of or during the course and as a part of, a judicial proceeding in which he participates, if the matter has some relation to the proceeding.

(Emphasis added).

The plain wording of the rule as stated in *Ange* and in the *Restatement* suggests an easy resolution of this question. Indeed, in *Ange* the Court found that an absolute privilege barred an action for defamation based on statements made in the office of the county judge to whom the defendant had gone to obtain a warrant. 98 Fla. 538, 540, 123 So. 916, 917. An analogous case is *Robertson v. Industrial Insurance Company,* 75 So.2d 198, 199 (Fla.1954), in which the Court held that an absolute privilege applied to defamatory statements made in a letter to the insurance commissioner used to institute license revocation proceedings.

Two of our district courts of appeal, however, have summarily found a qualified privilege on facts similar to the case at bar. *Anderson v. Shands*, 570 So.2d 1121, 1122 (Fla. 1st DCA 1990); *Ridge v. Rademacher*, 402 So.2d 1312, 1312 (Fla. 3d DCA 1981) ("We hold that an unsworn statement to a municipal police officer in regard to an alleged crime is not accorded an absolute privilege which will bar, as a matter of law, a subsequent action for slander based on such a statement, particularly when it is alleged to have been maliciously made." (footnote omitted)).[FN3]

> FN3. An earlier case from the Third District, *Buchanan v. Miami Herald Publishing Co.*, 206 So.2d 465, 467 (Fla. 3d DCA 1968), *modified*, 230 So.2d 9 (Fla.1969), extended an absolute privilege to persons who procure false testimony for presentation to the grand jury. *Buchanan* is not on point, however, because the alleged defamatory statements in that case were published to the grand jury, not to the police, and thus were clearly within the scope of the judicial proceedings privilege.

Thus, although there are no recent Supreme Court decisions on this issue, it appears from these cases that the district courts are dissatisfied with the results of the absolute privilege as set forth in *Ange* and *Robertson*.

Turning to other jurisdictions, it appears that a majority of states that have addressed this issue have embraced a qualified privilege.[FN4] *See Kahermanes v. Marchese*, 361 F.Supp. 168, 172 (E.D.Pa.1973); *Marsh v. Commercial & Sav. Bank*, 265 F.Supp. 614, 621 (W.D.Va.1967); *Miller v. Nuckolls*, 77 Ark. 64, 91 S.W. 759, 761-62 (1905); *Flanagan v. McLane*, 87 Conn. 220, 87 A. 727, 728 (1913); *Newark Trust Co. v. Bruwer*, 51 Del. (1 Storey) 188, 141 A.2d 615,

617 (1958); *Hardaway v. Sherman Enterprises*, 133 Ga.App. 181, 210 S.E.2d 363, 364 (1974) (construing statute), *cert. denied*, 421 U.S. 1003, 95 S.Ct. 2405, 44 L.Ed.2d 672 (1975); *Indiana Nat'l Bank v. Chapman*, 482 N.E.2d 474, 479 (Ind.Ct.App.1985); *Cormier v. Blake*, 198 So.2d 139, 144 (La.Ct.App.1967); *Robinson v. Van Auken*, 190 Mass. 161, 76 N.E. 601, 602 (1906); *Packard v. Central Me. Power Co.*, 477 A.2d 264, 268 (Me.1984); *Arnold v. Quillian*, 262 So.2d 414, 415 (Miss.1972); *Hancock v. Blackwell*, 139 Mo. 440, 41 S.W. 205, 207 (1897); *Pierce v. Oard*, 23 Neb. 828, 37 N.W. 677, 679 (1888); *Dijkstra v. Westerink*, 168 N.J.Super. 128, 401 A.2d 1118, 1120-21, *certification denied*, 81 N.J. 329, 407 A.2d 1203 (1979); *Grossman v. Fieland*, 107 A.D.2d 659, 483 N.Y.S.2d 735, 736 (1985); *Paramount Supply Co. v. Sherlin Corp.*, 16 Ohio App.3d 176, 475 N.E.2d 197, 202-03 (1984); ***68***Magness v. Pledger*, 334 P.2d 792, 795 (Okla.1959); *Sylvester v. D'Ambra*, 73 R.I. 203, 54 A.2d 418, 420 (1947); *Moore v. Bailey*, 628 S.W.2d 431, 436 (Tenn.Ct.App.1981); *Story v. Shelter Bay Co.*, 52 Wash.App. 334, 760 P.2d 368, 372-73 (1988); *Otten v. Schutt*, 15 Wis.2d 497, 113 N.W.2d 152, 156 (1962). *See generally* 50 Am.Jur.2d *Libel and Slander* § 214 (1970 & Supp.1991) (stating that "a communication to a law enforcement officer is generally held to be qualifiedly privileged"); Annotation, *Libel and Slander: Privilege Regarding Communications to Police or Other Officer Respecting Commission of Crime*, 140 A.L.R. 1466-78 (1942) ("[T]he majority of cases expressly dealing with [communications to the police] hold that the privilege is qualified or conditional, not absolute.").

FN4. A handful of states have found an absolute privilege. *See General Elec. Co. v. Sargent & Lundy*, 916 F.2d 1119, 1125-27 (6th Cir.1990) (construing Kentucky law); *Borg v. Boas*, 231 F.2d 788, 794 (9th Cir.1956) (construing Idaho Law); *Cutts v. American*

United Life Ins. Co., 505 So.2d 1211, 1215 (Ala.1987); *Starnes v. International Harvester*, 184 Ill.App.3d 199, 132 Ill.Dec. 566, 568-69, 539 N.E.2d 1372, 1374-75, *appeal denied*, 127 Ill.2d 642, 136 Ill.Dec. 607, 545 N.E.2d 131 (1989); *Ducosin v. Mott*, 292 Or. 764, 642 P.2d 1168, 1169-70 (1982); *Hott v. Yarborough*, 112 Tex. 179, 245 S.W. 676, 678-79 (1922).

We further note that two California courts of appeal are in direct conflict on this issue. *Compare Williams v. Taylor*, 129 Cal.App.3d 745, 181 Cal.Rptr. 423 (1982) (finding an absolute privilege) *with Fenelon v. Superior Court*, 223 Cal.App.3d 1476, 273 Cal.Rptr. 367, 371 (1990) (finding a qualified privilege). We find the reasoning expressed in *Fenelon* more persuasive.

Nevertheless, a number of commentators take the position that an informal complaint to investigating authorities is to be regarded as the "initial step" in a judicial proceeding and thus is absolutely privileged. W. Page Keeton et al., *Prosser and Keeton on the Law of Torts* § 114, at 819-20 (5th ed. 1984); *see* Laurence H. Elldredge, *The Law of Defamation* § 73, at 356 (1978); 1 Arthur B. Hanson, *Libel and Related Torts* 87 (1969); Rodney A. Smolla, *Law of Defamation* § 8.03[3][c], at 8-12 (1991).

In deciding this issue we recognize the need to balance two important and competing interests, described by one scholar as "the right of the individual, on one hand, to enjoy [a] reputation unimpaired by defamatory attacks, and, on the other hand, the necessity, in the public interest, of a free and full disclosure of facts in the conduct of the legislative, executive, and judicial departments of government." Van Vechten Veeder, *Absolute Immunity in Defamation: Judicial Proceedings*, 9 Colum.L.Rev. 463, 464 (1909).

The fundamental public policy underlying the judicial proceedings privilege as it applies to preliminary investigations is the need to encourage free and unhindered communication to assist the authorities in detecting and prosecuting perpetrators of criminal activity. This is the traditional reason for applying an absolute privilege, as set forth in the *Restatement:*

These "absolute privileges" are based chiefly upon a recognition of the necessity that certain persons, because of their special position or status, should be as free as possible from fear that their actions in that position might have an adverse effect upon their own personal interests. *To accomplish this, it is necessary for them to be protected not only from civil liability, but also from the danger of even an unsuccessful civil action.* To this end, it is necessary that the propriety of their conduct not be inquired into indirectly by either court or jury in civil proceedings brought against them for misconduct in their position. Therefor the privilege, or immunity, is absolute and the protection that it affords is complete. It is not conditioned upon the honest and reasonable belief that the defamatory matter is true or upon the absence of ill will on the part of the actor.

Restatement (Second) of Torts § 584, at 243 (Introductory Note: "Absolute Privilege Irrespective of Consent") (emphasis added).

The egregious facts alleged in this case, however, make an eloquent argument for adopting a qualified privilege. According to Edward, his siblings instituted a conspiracy to have him falsely arrested, indicted, convicted, and sentenced for the first-degree murder of his own father, a charge that carries a maximum penalty of death. This was done after an initial police investigation had determined that the shooting of Martin Fridovich was accidental and that no charges should be filed against Edward. The second investigation

that eventually led to the indictment of Edward allegedly was thus entirely of his brother's machinations. Furthermore, the complaint alleges that the conspirators actually purchased a stress analyzer to determine which family member could lie most convincingly to the police. Such carefully orchestrated plots to do harm are not lightly protected under the umbrella of absolute immunity. Indeed, an absolute privilege would frustrate the principle*69 that the courts should be open to redress every wrong.

Moreover, we believe that a plaintiff's burden of proof for establishing a case under a qualified privilege would likely deter most frivolous suits. In overcoming a qualified privilege, a plaintiff would have to establish by a preponderance of the evidence that the defamatory statements were false and uttered with common law express malice-i.e., that the defendant's primary motive in making the statements was the intent to injure the reputation of the plaintiff. *See* Nodar v. Galbreath, 462 So.2d 803, 806 (Fla.1984). Of course, the facts alleged in this case, if proven, would be sufficient to satisfy even this rigorous standard.

[2][3] After careful consideration of all the issues, we agree with the observation by the court below that a qualified privilege "is sufficiently protective of [those] wishing to report events concerning crime and balances society's interest in detecting and prosecuting crime with a defendant's interest not to be falsely accused." *Fridovich*, 573 So.2d at 70.[FN5] There is no benefit to society or the administration of justice in protecting those who make intentionally false and malicious defamatory statements to the police. The countervailing harm caused by the malicious destruction of another's reputation by false accusation can have irreparable consequences. We believe the law should provide a remedy in situations such as this.[FN6] We thus hold, as a majority of the other states have held in this context, that defamatory

statements voluntarily [FN7] made by private individuals to the police or the state's attorney prior to the institution of criminal charges are presumptively qualifiedly privileged.[FN8] We therefore recede from *Ange* and *Robertson* to the extent they are inconsistent with our ruling today.

FN5. Although not entirely responsive to the general policy underlying the absolute privilege, we note, as the New Jersey and California courts have noted, that in formal judicial proceedings "the potential harm which may result from the absolute privilege is somewhat mitigated by the formal requirements such as notice and hearing, the comprehensive control exercised by the trial judge whose action is reviewable on appeal, and the availability of retarding influences such as false swearing and perjury prosecutions." *Dijkstra v. Westerink,* 168 N.J.Super. 128, 401 A.2d 1118, 1121 (quoting *Rainier's Dairies v. Raritan Valley Farms, Inc.,* 19 N.J. 552, 117 A.2d 889, 894 (1955)), *certification denied,* 81 N.J. 329, 407 A.2d 1203 (1979); *see Fenelon v. Superior Court,* 223 Cal.App.3d 1476, 273 Cal.Rptr. 367, 370-71 (1990). These safeguards are not present when citizens make statements to the authorities involving alleged criminal activity.

FN6. *Accord Moore v. Bailey,* 628 S.W.2d 431, 436 (Tenn.Ct.App.1981) ("To hold the doctrine of privilege applicable to investigatory situations such as this-especially so very preliminary in nature-would be to give license to those with ill will and malice toward others to harass them unmercifully simply by addressing their vituperative comments to law enforcement or other governmental investigatory authorities.").

FN7. Our ruling does not apply to statements made under a state attorney's investigatory subpoena. Such statements would be encompassed within a judicial proceeding and thus would be absolutely privileged.

FN8. In so holding, we emphasize that the privilege only applies to statements voluntarily made to the police or a prosecuting attorney and not to defamatory statements made to private individuals. Thus, for example, the defamatory statements allegedly made by Anthony and his sister to the family housekeeper are not privileged at all.

The other issue in this case involves Edward's suit for intentional infliction of emotional distress. The district court reversed the trial court's dismissal of this claim. Anthony argues that to allow a plaintiff who has not overcome a defamation privilege to proceed with a claim for intentional infliction of emotional distress would defeat the purpose of the privilege.

[4] It is clear that a plaintiff is not permitted to make an end-run around a successfully invoked defamation privilege by simply renaming the cause of action and repleading the same facts. Obviously, if the sole basis of a complaint for emotional distress is a privileged defamatory statement, then no separate cause of action exists. *See Anderson v. Rossman & Baumberger, P.A.*, 440 So.2d 591, 593 (Fla. 4th DCA 1983) (finding no cause of action for intentional infliction of emotional distress***70** where the primary conduct relied on was defamatory statements in court pleadings), *review denied*, 450 So.2d 485 (Fla.1984). In short, *regardless of privilege*, a plaintiff cannot transform a defamation action into a claim for intentional infliction of emotional distress simply by characterizing the alleged defamatory statements as "outrageous." *See Boyles v. Mid-Florida Television*

Corp., 431 So.2d 627, 636 (Fla. 5th DCA 1983), *approved on other grounds*, 467 So.2d 282 (Fla.1985).

[5] We thus find that the successful invocation of a defamation privilege *will* preclude a cause of action for intentional infliction of emotional distress if the sole basis for the latter cause of action is the defamatory publication. However, that privilege will not prevent recovery upon separate causes of action which are properly pled upon the existence of independent facts.

Accordingly, we answer the certified question in the negative and remand to the district court for proceedings consistent with this opinion.

It is so ordered.

SHAW, C.J., and OVERTON, GRIMES, KOGAN and HARDING, JJ., concur.

McDONALD, J., dissents with an opinion.
McDONALD, Justice, dissenting.
I believe the price to be paid for the cause of action approved by the majority is too great to allow it. In this case we are asked to resolve an issue that lies somewhere between the interest in allowing individuals to have legal redress for injuries to their reputations and the competing societal interest in bringing criminals to justice. I conclude that statements made to law enforcement officers, state attorneys, or other law enforcement personnel prior to the initiation of judicial proceedings should be absolutely privileged.

There is a compelling societal interest in encouraging citizens to come forth and report suspected criminal activity. This Court should not aggravate the already existing problem of crimes not brought to justice by citizens terrified of adverse

repercussions to their safety and welfare, both physical and economic, by adding to that fear the possibility of economic strangulation resulting from successful, or even unsuccessful, civil litigation. *See* Restatement (Second) of Torts § 584 (1977).

The reporting of many crimes is caused by actual malice against the wrongdoer. A mother reports child abuse because of anger and malice against the perpetrator. A jilted lover reports a previously concealed crime such as robbery, theft, or homicide because of malice against the former lover. Such examples exist throughout the criminal justice system, and we should not deter the reporting of crime. I believe this will happen if we allow a defamation action for statements made to police or prosecutors prior to the filing of charges. It defies logic to clothe statements made under oath with a cloak of absolute privilege, where false communications are already deterred via possible prosecution for false swearing and perjury, while not granting such protection to unsworn statements, which are similarly tempered by possible civil action for malicious prosecution.

Individuals whose reputations are irreparably harmed due to false accusations to law enforcement officers or state attorneys, but who prevail in that prosecution, are able to recover damages from that accuser via an action for malicious prosecution. This is an adequate remedy. *Warriner v. Burdines, Inc.*, 93 So.2d 108 (Fla.1957). In cases such as the one before us, where the accusations result in the conviction of a felon, it is better public policy not to punish people who are instrumental in securing such convictions regardless of their motivation. The majority's opinion places too much emphasis on the "alleged" facts in its adoption of qualified privilege without due consideration of its ramifications. The facts before us are indeed "egregious," but are more likely exceptional rather than

usual. Future actions for defamation in similar contexts will likely be founded upon "milder" circumstances. I fear that, under the view adopted by the majority, many unsubstantiated actions for ***71** defamation will, with the help of competent counsel, withstand summary judgment, thus exposing individuals to the high costs of litigation. This scenario creates an intolerable "chilling effect" on individuals who are considering reporting suspected criminal activity.

Absolute privilege, in my view, is the preferred policy. Thus, I believe that no cause of action predicated on statements made to police, prosecutors, or other law enforcement personnel should exist when the goal is prosecution of the allegedly defamed person. I could accept the premise of the majority when a nonpenal interest is at stake, such as that which existed in *Robertson v. Industrial Insurance Co.*, 75 So.2d 198 (Fla.1954), and *Nodar v. Galbreath*, 462 So.2d 803 (Fla.1984). These situations do not involve accusations of crimes to law enforcement agencies.

Fla.,1992.
Fridovich v. Fridovich
598 So.2d 65, 17 Fla. L. Weekly S210

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APPENDIX S

Jenkins v. State of Florida, 385 So.2d 1356 (1980).

385 So.2d 1356

Supreme Court of Florida.
Philip H. JENKINS, Petitioner,
v.
STATE of Florida, Respondent.
No. 59087.
June 26, 1980.

Defendant was convicted, on plea of nolo contendere, before the Circuit Court, Palm Beach County, Marvin U. Mounts, Jr., J., and defendant appealed. The District Court of Appeal, 382 So.2d 83, affirmed. On application for review, the Supreme Court, Sundberg, J., held that Court lacked jurisdiction to review District Court of Appeal's decision, which read in its entirety "Per Curiam Affirmed," though the decision was accompanied by dissenting opinion.
Application for review dismissed.
England, C. J., concurred specially and filed opinion.
Adkins, J., dissented and filed opinion.

West Headnotes

[1] KeyCite Notes

92 Constitutional Law
92II Construction, Operation, and Enforcement of Constitutional Provisions
92k11 General Rules of Construction
92k16 k. Matters Extrinsic to Instrument in General.

Most Cited Cases

State constitutional amendment must be viewed in light of historical development of the decisional law extant at time of amendment's adoption and the intent of framers and adopters.

[2] KeyCite Notes

106 Courts
106VI Courts of Appellate Jurisdiction
106VI(B) Courts of Particular States
106k216 k. Florida. Most Cited Cases

Supreme Court lacked jurisdiction to review District Court of Appeal's decision, which read in its entirety "Per Curiam Affirmed," though the decision was accompanied by dissenting opinion. West's F.S.A.Const. Art. 5, §§ 3, 3(b)(3).

[3] KeyCite Notes

106 Courts
106VI Courts of Appellate Jurisdiction
106VI(B) Courts of Particular States
106k216 k. Florida. Most Cited Cases

Regardless of whether District Courts of Appeal's per curiam decisions, which are rendered without opinion, are accompanied by a dissenting or concurring opinion, Supreme Court lacks jurisdiction to review such a decision for alleged conflict with a decision of another District Court of Appeal or Supreme Court. West's F.S.A.Const. Art. 5, §§ 3, 3(b)(3).

*1357 Edward A. Garrison of Kohl, Springer, Springer & Garrison, Palm Springs, for petitioner.
Jim Smith, Atty. Gen., and John D. Cecilian, Asst. Atty. Gen., West Palm Beach, for respondent.

SUNDBERG, Justice.
We here address the question whether this Court currently has jurisdiction to review a decision of a district court of appeal which reads in its entirety "Per Curiam Affirmed" where a dissenting opinion is filed in the case. We answer the question in the negative. Review of the decision of the District Court of Appeal, Fourth District, [FN*] was sought in this cause by notice to invoke the certiorari jurisdiction of this Court filed April 11, 1980. By his application petitioner asserts that the decision of the district court is in conflict with decisions of other districts or with Supreme Court decisions upon the issue of whether uncorroborated hearsay information from a confidential informant, who had not divulged the source of his information, was sufficient to establish probable cause for a warrantless search of a vehicle. Prior to trial, petitioner moved to suppress evidence seized in a search of his vehicle. The trial court denied the motion to suppress. Petitioner subsequently entered a plea of nolo contendere preserving his right to appeal the trial court ruling. On review the district court affirmed the ruling of the trial court without opinion. One member of the three-judge panel dissented to the decision of the majority in a comprehensive opinion which recited the facts extensively and concluded that under prevailing law the search violated petitioner's fourth amendment rights.
FN* Jenkins v. State, 382 So.2d 83 (Fla. 4th DCA 1980).

After ratification by the people of this state at an election held on March 11, 1980, article V, section 3 of the Florida Constitution pertaining to the jurisdiction of the Supreme Court was substantially revised. In particular, section 3(b)(3) underwent a dramatic change. Prior to April 1, 1980 (the effective date of the amendment), the provisions of section 3(b)(3) relating to review of conflicting decisions read as follows:

May review by certiorari any decision of a district court of appeal . . . that is in direct conflict with a decision of any district court of appeal or of the supreme court on the same question of law. . . . Post April 1, 1980, that section reads with respect to review of conflicting decisions:

May review any decision of a district court of appeal . . . that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law. . . .
(Emphasis supplied.)

[1] The constitutional amendment must be viewed in light of the historical development of the decisional law extant at the time of its adoption and the intent of the framers and adopters. Our inquiry must begin with the amendment to article V of the Florida Constitution occurring in 1956, whereby the district courts of appeal were created. In grappling with the significance of the revised jurisdiction of this Court, a tone was set early on. In Ansin v. Thurston, 101 So.2d 808, 810 (Fla.1958), speaking through Justice Drew, the Court said:

We have heretofore pointed out that under the constitutional plan the powers of this Court to review decisions of the district courts of appeal are limited and strictly prescribed.

Diamond Berk Insurance Agency, Inc. v. Goldstein, Fla., 100 So.2d 420; Sinnamon v. Fowlkes, Fla., 101 So.2d 375. It was never intended that the district courts of appeal should be intermediate courts. The revision and modernization of the Florida judicial system at the appellate level was prompted by the great volume of cases reaching the Supreme Court and the consequent delay in the administration of justice. The new article embodies throughout its terms the idea of a Supreme Court which functions *1358 as a supervisory body in the judicial system for the State, exercising appellate power in certain specified areas essential to the settlement of issues of public importance and the preservation of uniformity of principle and practice, with review by the district courts in most instances being final and absolute. To fail to recognize that these are courts primarily of final appellate jurisdiction and to allow such courts to become intermediate courts of appeal would result in a condition far more detrimental to the general welfare and the speedy and efficient administration of justice than that which the system was designed to remedy.

[2] This was followed by Lake v. Lake, 103 So.2d 639 (Fla.1958), where Justice Thomas again reviewed the history of and purposes for the 1956 amendment to article V and held that in order to fulfill those purposes, a "per curiam" decision without opinion of a district court of appeal would not be reviewed by this Court upon petition for certiorari based on "direct conflict" jurisdiction except in those rare cases where the "restricted examination required in with resulting injustice to the immediate litigant." Id. at 643. Some seven years later, however, in an opinion which observed that the rule of Lake v. Lake had been eroded de facto if not de jure by subsequent actions of the Court, a majority of the Court determined that there was jurisdictional power under section 3(b)(3) to review district court decisions rendered "per curiam" without opinion if from the "record

proper" conflict with another decision could be discerned. Foley v. Weaver Drugs, Inc., 177 So.2d 221 (Fla.1965). In the interim the Court had already concluded that conflict certiorari jurisdiction could be founded on a dissenting opinion to a per curiam majority decision rendered without opinion. Huguley v. Hall, 157 So.2d 417 (Fla.1963). This position was adopted by a majority of the Court without discussion or rationale and has been subsequently followed without amplification of reasoning. E. g., Autrey v. Carroll, 240 So.2d 474 (Fla.1970); Commerce Nat'l Bank in Lake Worth v. Safeco Ins. Co., 284 So.2d 205 (Fla.1973). In the Commerce National Bank decision, however, the impediments to relying on the factual statement contained in a dissenting opinion to establish conflict jurisdiction were observed:

When facts and testimony are set forth in a majority opinion, they are assumed to be an accurate presentation upon which the judgment of the court is based. However, a dissent does not rise to a similar level of dignity and is not considered as precedent; note, for example, that West Publishing Company does not offer headnotes for dissents, regardless of their legal scholarship. By definition, a dissent contains information, interpretations or legal analysis which has been rejected in whole or part, by the majority. It is also possible that the majority accepts matters set forth in the dissent, but for other reasons declines to follow its line of thought. The majority is under no compulsion to respond to a dissent or to set out the measure of their reluctance to agree. The issuance of a per curiam opinion without comment or citation of authority remains the prerogative of the majority.
Id. at 207.

More recently, the wisdom of the jurisdictional policies expressed in Foley and Huguley have been brought into question by several members of this Court. See Florida Greyhound Owners & Breeders Ass'n, Inc. v. West Flagler Associates, Ltd., 347 So.2d 408, 408 (Fla.1977) (England, J., concurring; Overton, C. J., concurring specially); Golden Loaf Bakery, Inc. v. Charles W. Rex Constr. Co., 334 So.2d 585, 586 (Fla.1976) (England, J. and Overton, C. J., concurring); AB CTC v. Morejon, 324 So.2d 625, 628 (Fla.1975) (England and Overton, JJ., dissenting).

It was against this jurisprudential backdrop and in the face of a staggering case load that in November, 1979, this Court urged the legislature, meeting in special session, to enact a proposed amendment to *1359 section 3 of article V of the Florida Constitution to limit the jurisdiction of the Supreme Court. Times were not unlike the year 1956 when the challenge confronting the drafters of that amendment to the judicial article was described thus:

The means and procedure required to accomplish the improvement were difficult, complicated, tedious and onerous.

Yet the determination was not lacking for congestion in the court of last resort had become almost intolerable. The time had come when the court, working at top speed, with cases, except extremely emergent ones, set in the order of their maturity, was hearing arguments as late as fourteen months after the cases were ready for oral presentation.

For about eighteen months after its creation the (Judicial) Council, in periodic meetings, debated and deliberated the method which might most effectively modernize a system that by overloading had ceased to function as it should to assure litigants justice without undue, or even ruinous, delay.

The words of Gladstone were often heard: "Justice delayed is justice denied."
Lake v. Lake, 103 So.2d 639, 640-41. The legislature responded through enactment of Senate Joint Resolution No. 20-C, which forms the language of the current section 3 of article V.
At hearings before the legislature and in countless meetings with representatives of The Florida Bar, The Conference of Circuit Judges of Florida, the Appellate Judges' Conference, The League of Women Voters as well as other interested organizations too numerous to recount, members of this Court represented that one of the intents and effects of the revision of section 3(b)(3) was to eliminate the jurisdiction of the Supreme Court to review for conflict purposes per curiam decisions of the district courts of appeal rendered without opinion, regardless of the existence of a concurring or dissenting opinion. These same representations were made consistently to the public at large preceding the ballot on the proposed amendment. There can be little doubt that the electorate was informed as to this matter, because opponents of the amendment broadcast from one end of this state to the other that access to the Supreme Court was being "cut off," and that the district courts of appeal would be the only and final courts of appeal in this state. With regard to review by conflict certiorari of per curiam decisions rendered without opinion, they were absolutely correct.
The pertinent language of section 3(b)(3), as amended April 1, 1980, leaves no room for doubt. This Court may only review a decision of a district court of appeal that expressly and directly conflicts with a decision of another district court of appeal or the Supreme Court on the same question of law. The dictionary definitions of the term "express" include: "to represent in words"; "to give expression to." "Expressly" is defined: "in an express manner." Webster's Third New International Dictionary, (1961 ed. unabr.). The single word "affirmed" comports with none of these definitions.

Furthermore, the language and expressions found in a dissenting or concurring opinion cannot support jurisdiction under section 3(b)(3) because they are not the decision of the district court of appeal. As stated by Justice Adkins in Gibson v. Maloney, 231 So.2d 823, 824 (Fla.1970), "(i)t is conflict of decisions, not conflict of opinions or reasons that supplies jurisdiction for review by certiorari." (Emphasis in original.)

[3] KC Accordingly, we hold that from and after April 1, 1980, the Supreme Court of Florida lacks jurisdiction to review per curiam decisions of the several district courts of appeal of this state rendered without opinion, regardless of whether they are accompanied by a dissenting or concurring opinion, when the basis for such review is an alleged conflict of that decision with a decision of another district court of appeal or of the Supreme Court. The application for review in the instant case having been filed subsequent to March 31, 1980, it is therefore dismissed.

ENGLAND, C. J., and BOYD, OVERTON, ALDERMAN and McDONALD, JJ., concur.

*1360 ENGLAND, C. J., concurs specially with an opinion.

ADKINS, J., dissents with an opinion.

ENGLAND, Chief Justice, concurring specially.
A detailed recitation of the relevant history of the 1980 jurisdictional amendment is relevant to an understanding of the majority's conclusions as to its applicability in this case.[FN1]

FN1. This recitation is extracted from an article to be published later this year in 32 U.Fla.L.Rev., Vol. 2 (Winter

1980), entitled "Constitutional Jurisdiction of the Florida Supreme Court: 1980 Reform." Detailed, supporting footnotes have been omitted here. For an abridged version of this article, see England, Hunter & Williams, An Analysis of the 1980 Jurisdictional Amendment, 54 Fla.B.J. 406 (1980).

In his 1978 Report to the Legislature, then Chief Justice Ben Overton recommended the creation of a commission, having broad based participation, to determine the need for an additional district court and to consider district court rather than supreme court review of workmen's compensation cases. In the summer of 1978, newly-elected Chief Justice Arthur England implemented Justice Overton's recommendation by appointing an Appellate Structure Commission chaired by Justice Overton and composed of district, circuit and county court judges, legislators, laymen and members of the bar. Chief Justice England expanded the scope of the commission's inquiry, however, to include a review of the entire appellate system in light of the 1956 goal "to ensure that the district courts of appeal are courts of final appellate review as contemplated by Article V of the Constitution." In response to its expanded duty, the commission analyzed each category of the supreme court's jurisdiction to determine if cases in those categories were significant or important enough to justify the attention of a then overloaded state high court. Tentative votes, taken at the October 12, 1978 meeting, indicated the commissioners' view that, ideally, mandatory jurisdiction should be restricted to death penalty cases, decisions invalidating statutes or construing the constitution, and bond validation proceedings. Nonetheless, after six months of work, the commission rejected constitutional change to achieve this goal and recommended only that the supreme court's jurisdiction be modified by statute and by rule.

After weeks of intense discussion within the Court and numerous internal drafts of proposed changes, the chief justice, on behalf of a unanimous court, presented virtually every aspect of the commission's recommendations for appellate court reforms to the 1979 legislature. The most notable exception was the Court's rejection of the commission's proposal to alter the jurisdiction of the supreme court solely by rule and by statute. The Court viewed the commission's data as conclusive of the need for a constitutional adjustment, and it refused to deny the voters of Florida the right to refine the jurisdictional role which the constitution had created in 1956.

Statistics developed by the commission had demonstrated, for the first time, that the Court's growing problems were not (as generally believed) attributable to the Court's liberality in accepting cases for review, but rather to the effects of its constitutionally assigned mandatory jurisdiction and the numbers of cases being brought as a result (among others) of Foley v. Weaver Drugs, Inc., 177 So.2d 221 (Fla.1965). The commission found that "the Court has in reality exercised great restraint in accepting for review the cases over which it has any freedom of choice" and has "granted (discretionary petitions) in less than 5 percent of the cases. . . ."

The Court proposed a constitutional amendment in April 1979, which was filed by Senator Mattox Hair, chairman of the Senate Judiciary-Civil Committee, as Senate Joint Resolution 714, for consideration at the 1979 regular session of the Florida Legislature. The Court's discretionary jurisdiction under SJR 714 was predicated on district court certifications of decisions in conflict or of questions of great public importance, plus a "safeguard" provision authorizing*1361 the supreme court, on its own initiative, to reach down and obtain for review trial court orders and district court decisions which had substantial importance and required immediate statewide resolution.

The Judicial Council endorsed and supported SJR 714. Under

pressure to accept or reject the Court's proposal on very short notice, however, the Board of Governors of The Florida Bar, by a vote of 18 for and 12 against, failed to endorse SJR 714 by the two-thirds vote required by the Board's bylaws. The members of the Board principally objected to SJR 714 because attorney-filed petitions for conflict certiorari review were eliminated, and because the initiative, or so-called "reach down" provision, did not appear to allow attorney-filed suggestions to the Court.

Two Senate Judiciary-Civil Committee hearings were held. Despite the Court's expression of intent to limit severely the exercise of the safeguard or "reach down" provision, that provision was ridiculed by opponents of SJR 714 as "pluck up" power which would destroy the finality of all cases throughout the judicial system. Opposition to SJR 714 also developed from attorneys who expressed a lack of trust in district court judges, or at least in their ability or willingness to recognize, concede, and certify conflicting decisions. At the suggestion of the bill's sponsor, SJR 714 was withdrawn from further consideration during the 1979 regular session, in order to give the Court an opportunity to discuss alternatives with opponents and critics and to seek a consensus substitute by the time of an announced special legislative session in the fall of 1979.

Notwithstanding the fate of SJR 714, the Court gained support for its position that structural change was essential to avoid a potential decline in the quality of its work and its increasing backlogs and delays. Justice Sundberg scheduled a series of meetings with a committee appointed by the president of The Florida Bar, in an effort to review the controversial aspects of the Court's original proposal. A statement of agreed principles was eventually drafted by the bar committee and Justice Sundberg, to advise the bar's Board of Governors and the Court of a consensus that could be reached. This included a proposal to retain discretionary

review of written opinions of district courts invoked by attorney-filed petitions asserting decisional conflict. The bar committee made clear the intent to overrule the Foley decision regarding conflict, however, by declaring that only an opinion which "articulates a rule of law . . ." should qualify for discretionary review.

At the urging of attorney Tobias Simon and others who feared too severe a narrowing of the Court's review authority, the bar committee presented, as an acceptable alternative plan, discretionary review of "decisions of a district court of appeal which substantially affect the general public interest or the proper administration of justice throughout the state" a standard based on the American Bar Association model for constitutionally unlimited discretionary review.-

After the bar's deliberations, Justice Overton reconvened the Appellate Structure Commission to review the bar committee's statement of principles. At their meeting on September 5, 1979, the commission disagreed with the bar committee's preferential guidelines for discretionary review. At the urging of commission member Tobias Simon the commission opted instead for the alternative constitutionally unlimited discretionary review to be restricted by the Court's adoption of rules setting guidelines for its own exercise of discretion.

On September 15, 1979, the bar committee's principles were presented formally to the Board of Governors by the committee's chairman, attorney Benjamin Redding of Panama City. Tobias Simon argued for the alternative, commission-approved approach of constitutionally unlimited discretionary review. The members of the Board of Governors, at the request of Justice Sundberg, agreed to support a Court proposal for constitutional change based either on the committee's principles or the alternative.

*1362 As the Court prepared to submit to the November special legislative session a proposed substitute for SJR 714, the chairman of the American Bar Association's Committee

to Implement Standards of Judicial Administration expressed an interest in Florida's court reform effort and chose Tallahassee as the site for the next scheduled ABA Committee meeting. The Committee's national expertise with appellate courts focused, in accordance with the ABA standards, on constitutionally unlimited discretionary review for the supreme court. In discussions with legislative committee members, the Court, and the bar immediately preceding the legislative session, however, the ABA committee members recognized unusual features in the Florida system of which they had not previously been aware. Principal among these was the incredibly large number of appeals (35 per year) filed in death penalty cases, each requiring full record and sentence review. This compared, they noted, with only eight death cases a year in the state with the next highest volume. They also noted the special concern for constitutional conflict resolution jurisdiction, due to the diversity in geographical regions of the state. These and other unique factors, the Committee concluded, adequately explained Florida's proposed deviation from the ABA's model standard of constitutionally unlimited discretionary review.

When the combined Senate-House Judiciary Committees met to consider the Court's new constitutional amendment on the opening day of the three-day November 1979 special session, only two issues in the proposal were very controversial, and these quickly became the focus of attention. The first was the Court's suggestion to remove the constitutional restriction on the selection of supreme court justices, which required appellate district representation on the Court. The other publicly controversial issue concerned review of public utility decisions, most of which were proposed to be transferred from the supreme court for review in the district courts of appeal. The Court's proposal SJR 20-C emerged from committees of both chambers of the legislature in essentially the form suggested by the Court, as derived from

the bar committee's statement of principles.
SJR 20-C, as amended, was adopted by the Senate by a vote of 38 to 2 on November 28, together with a companion bill (SB 21-C) to accelerate submission to the voters by allowing the proposed amendment to be considered at the special presidential primary election scheduled for March 11, 1980. Immediately following the vote in the Senate, both measures were certified to the House, substituted for comparable House legislation, and adopted without further amendment by a vote of 110 to 2.
During the period between November 28, 1979, and March 11, 1980, active public support for SJR 20-C was undertaken by six of the seven justices of the supreme court,[FN2] the governor, the attorney general of Florida, and the organized bar. Endorsements for the proposal were sought and received from the conferences of district court, circuit court, and county court judges, the League of Women Voters, the prosecuting attorneys' association, the sheriffs' association, and numerous newspaper and television editorial boards.
FN2. Justice Adkins publicly opposed the amendment.

The Florida Bar and the Young Lawyers Section of The Florida Bar developed and disseminated promotional literature, and provided speakers both for civic clubs and for media discussions and debates. Promotional literature was distributed widely throughout the state, including targeted explanations of the amendment to employees of the state's electric and telephone companies, and to residents of condominium associations.
Articles supporting passage of the amendment, most authored by justices of the Court supporting the amendment, were published in trade publications such as the journals or monthly newsletters of the Florida Bankers Association, the cattlemen's association, the county commissioners' association, the League of

Municipalities, and the *1363 like. Television appearances and radio spots were scheduled whenever possible for the justices supporting the amendment, and for others offering public support for its adoption.
Two dominant themes of persuasion were argued by the proponents. First, the amendment would eliminate delay in the supreme court, both by removing from the Court's docket those district court decisions which had no written opinion, and by eliminating all direct appeals to the supreme court from trial courts (except in bond validation cases and cases in which a death penalty had been imposed). Second, the amendment would reduce the cost of litigation by reducing the number of multiple appeals and by making the district courts truly final in the bulk of matters brought to Florida's appellate courts.
Opposition to the amendment developed from a small group of Florida attorneys organized by Tobias Simon as "Floridians against Limited Access," from one current and one former member of the supreme court,[FN3] and from the public defenders' association. The main efforts of the opponents were to develop newspaper and television editorial support against the amendment, to develop opposition in local bar associations, and to urge public rejection of the amendment through media appearances. Five dominant themes were espoused.
FN3. Former Justice B. K. Roberts publicly opposed the amendment.

First, it was suggested to the media that the amendment would limit or cut off entirely their access to the supreme court for the resolution of first amendment cases. Second, local bar associations and the public were told that general access to the Court would be curtailed. Third, it was suggested that district court judges would be given the power to prevent review of their decisions by the supreme court. Fourth, it was urged that the Florida

Supreme Court should be like the United States Supreme Court and the ABA's model high tribunal, having constitutionally unlimited discretionary review of district court decisions. Lastly, the opponents inferred that the amendment was unnecessary because the Court's caseload was in fact diminishing and the justices traveled too much.
Immediately before the March 11 vote, the 1980 amendment was endorsed editorially by almost every major, daily newspaper in the state. The official vote for passage on March 11 was 940,420 to 460,266 a 67 percent ratio of voter approval.

The significance of the public discussion concerning the amendment is that it provides a frame of reference by which to ascertain the intent of the voters in adopting the amendment.[FN4] **In this case, the public debate and informational literature make abundantly clear that the voters were asked to approve an appellate court structure having these features:**
FN4. Myers v. Hawkins, 362 So.2d 926 (Fla.1978).

1. a supreme court having constitutionally limited, as opposed to unlimited, discretionary review of intermediate appellate court decisions; and
2. finality of decisions in the district courts of appeal, with further review by the supreme court to be accepted, within the confines of its structural review, based on the statewide importance of legal issues and the relative availability of the Court's time to resolve cases promptly.

ADKINS, Justice, dissenting.

I dissent.

We are embarking on a course which limits our jurisdiction to matters concerning deep questions of law, while the great bulk of litigants are allowed to founder on rocks of uncertainty and trial judges steer their course over a chaotic reef as they attempt to apply "Per Curiam Affirmed" decisions. When the constitutional amendment is considered in light of historical development of the decisional law (as suggested by the majority), we find regression instead of progression. The majority admits that many will not obtain justice for our jurisdiction will be limited to resolving questions of importance to the public as distinguished *1364 from that of the parties. In Ansin v. Thurston, 101 So.2d 808, 811 (Fla.1958), cited by the majority, the Court said:

(T)here should be developed consistent rules for limiting issuance of the writ of certiorari to "cases involving principles the settlement of which is of importance to the public, as distinguished from that of the parties, and in cases where there is a real and embarrassing conflict of opinion and authority" between decisions.

The opinion in Ansin v. Thurston, supra was authored by Justice Drew. This interpretation lasted for seven years and then a progressive Court adopted Foley v. Weaver Drugs, Inc., 177 So.2d 221 (Fla.1965). The rule in Ansin had created problems which were resolved in Foley. In a special concurring opinion in Foley, Justice Drew said:

Many problems have arisen in the interpretation of amended Article V. But there has been no dispute that under the constitutional plan for the administration of justice at the appellate level in this State the responsibility was placed in this Court to keep the law harmonious and uniform. . . . We must assume, in the absence of something in the record to indicate a contrary view, that an affirmance of a decision of a trial court by a decision of

the District Court of Appeal makes the trial court decision the decision of the District Court. So far as the trial judge is concerned and so far as the Bench and Bar who are familiar with the decision of the trial judge are concerned, such judgment is the law of that jurisdiction. I think it would result in utter chaos in the judicial system of this State with three separate District Courts, and the possibility of a fourth in the near future, if it were impossible for this Court to maintain consistency and uniformity of the law in such cases. A different rule of law could prevail in every appellate district without the possibility of correction. The history of similar courts in this country leads to the conclusion that some of such courts have proven unsatisfactory simply because of the impossibility of maintaining uniformity in the decisional law of such state.
177 So.2d at 230.
In Seaboard Air Lines Railroad Company v. Williams, 199 So.2d 469, 472 (Fla.1967), Justice Drew reiterated his views, saying:

In my concurring opinion in Foley v. Weaver Drugs, Fla.1965, 177 So.2d 221, I observed: "I think it would result in utter chaos in the judicial system of this State with three separate District Courts, and the possibility of a fourth in the near future, if it were impossible for this Court to maintain consistency and uniformity of the law in (decisions of such district courts merely affirming without opinion) * * *." What has occurred in this case fulfills that prophecy. I, therefore, concur in the foregoing majority opinion.
Under the construction proposed by the majority we will have well-written uniform opinions, but the decisions of the five district courts of appeal will be in hopeless conflict.

The majority says there was little doubt "that the electorate was informed" and proceeds to construe a purported constitutional amendment, the terms of which were not placed on the ballot nor were they explained to the public. While discussions with some segments of the public on background and debates concerning the proposed amendment were instructive, nevertheless, what was submitted to the people for adoption was a statement on the ballot which read: "(p)roposing an amendment to the State Constitution to modify the jurisdiction of the Supreme Court." In discussing the proposed amendment, one news analyst contended:

The ballot says simply that the proposal would "modify the jurisdiction of the Supreme Court," giving the public little insight into the changes it would make in court appeals procedures.

Given the complex nature of those procedures, few voters understand the issue.

Van Gieson, Reform Sought to Ease Court's Load, Tallahassee Democrat, March 9, 1980 at 5b, col. 1.

*1365 A pamphlet entitled "Constitutional Amendments on Florida Supreme Court Jurisdiction . . . to be Considered at March 11, 1980, Election" prepared by Manning J. Dauer and Fred Goddard discussed the content of the change in the constitution as follows:

The proposed change to Article 5 does not modify the organization of the State Supreme Court. There was a proposal from the Supreme Court to permit all justices of the State Supreme Court to be from the state at large. The legislature, however, retained subsection A of Section 3 which requires at least one of the justices to be from each of the districts in which the state is divided for district courts of appeal. In sub-section B there are a number of modifications as to the jurisdiction of the Supreme Court. The attempt has been made to retain appellate jurisdiction for the most important cases

involving new point of law, the death penalty, constitutional questions, affecting the state constitution or that of the U.S., affecting the construction of new statutes passed by the legislature, affecting disagreements among two or more district courts of appeal, affecting bond validation, and affecting certain cases certified for review by the district courts of appeal. Also, the jurisdiction of the Supreme Court has been changed in one case category, that is, cases from administrative agencies of the state affecting rates charged to consumers or service provided by the electric utilities and gas and phone companies.

On the other hand, many other types of cases will be cut off with the appeal being exhausted at the level of the district courts of appeal. For example, cases involving life imprisonment will now be constitutionally limited to the level of the appellate district court unless the case involves a constitution question, a new statute, or a disagreement in construction among district courts. Writs of certiorari (requests for appeal) would be much more limited. Appeals from state administrative agencies' decisions would ordinarily stop at the district courts of appeal. The Supreme Court would retain, of course, the right to issue writs of certiorari, writs of habeas corpus, writs of prohibition, writs of injunction, and writs of mandamus when it entertained jurisdiction.

The aim of these and other changes is to reduce the caseload on the Supreme Court. The estimate given by the Court is that instead of handling 3000 cases per year, the changes will permit the reduction of the caseload from 3000 to 2000 or less. At the same time, the citizen will be guaranteed justice by having cases heard more quickly and by appeals being adequately considered at the district court level. Finally, in the categories of new issues, or in case of disagreement by lower courts, review is still available at the level of the State Supreme Court.

DAUER, Amendment to Limit Appellate Jurisdiction of the Florida State Supreme Court, 62 Pub.Ad. Clearing Service, Univ. of Fla. Civic Information Ser. 2, 4-5, (1980). (Emphasis supplied.)

The proposed amendment was conceived and composed by the justices of this Court. After the proposal was approved by the legislature, it was decided to place the proposed amendment on the ballot at a special election. See article XI, section 5(a), Florida Constitution. Hopefully, this special election would create interest in the voting populace because it was a special presidential primary election in which a popular homestead amendment giving tax relief would also be considered. The substance of the amendment to be placed on the ballot (section 101.151, Florida Statutes), was as follows: "An amendment to the State Constitution to modify the jurisdiction of the Supreme Court." Justices of the Court and others attempted to explain the contents of the proposed amendment to the public, and there were many discussions.

While the discussions relating to the intent of the framers, referred to by the majority, were instructive as to background, nevertheless, there was only one provision submitted to the voters for adoption: "an amendment to the state constitution to modify the jurisdiction of the *1366 supreme court." Any discussions or debate which may have taken place does not change the provision on the ballot that was approved by the voters. See In Re Advisory Opinion, 223 So.2d 35, 40 (Fla.1969). Construing this provision (as placed upon the ballot) under the ordinary rules of construction, the voters gave us absolute discretion in determining whether we had jurisdiction of a particular case.

Also, I disagree with the judgment of the majority that language and expressions found in a dissenting or concurring opinion cannot support jurisdiction. The

effect of the 1980 amendment is to give us jurisdiction for review of a decision that expressly and directly conflicts with a decision of another district court of appeal. A "Per Curiam Affirmed" is a decision, but no decision can be rendered unless three judges of the district court of appeal participate. Art. V, s 4(a), Fla.Const. (1972). A concurring or dissenting opinion is used by trial judges throughout the state in determining the effect of a "Per Curiam Affirmed" decision. We should glance through the window of our ivory tower and attempt to adjust any confusion in the law which may arise by virtue of statements made in a concurring or dissenting opinion, as it is an integral part of the decision of the district courts of appeal.

There will be occasions when a "Per Curiam Affirmed" decision will cite another case. In some instances the cited case had admittedly been in conflict with other decisions, but, because of the failure of the parties to seek our jurisdiction, the law remained unsettled. Under the construction of the present constitutional amendment, the law will remain unsettled. A heavy case load does not justify our spawning confusion in the judicial system. The decision of the district court of appeal conflicts with other decisions and creates instability in the law. I would accept jurisdiction.

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Fla., 1980.
Jenkins v. State
385 So.2d 1356

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APPENDIX T

State of Florida v. Marks, 833 So.2d 249, 28 Fla. L. Weekly D108.

833 So.2d 249, 28 Fla. L. Weekly D108

District Court of Appeal of Florida,Fourth District.
STATE of Florida, Appellant,
v.
MARK MARKS, P.A., and Carl Borgan, Appellees.
Nos. 4D01-4622, 4D02-658.

Dec. 26, 2002.

Attorneys were charged as principals to the perjury of their client. After client recanted the perjurious statements, the Circuit Court, Seventeenth Judicial Circuit, Broward County, Robert Lance Andrews, J., dismissed case against attorneys. State appealed. The District Court of Appeal, Gross, J., held that attorneys could no longer be charged as principals for their client's perjury once the client recanted.

Affirmed.

West Headnotes

[1] Perjury 297 ⚿16

297 Perjury
297I Offenses and Responsibility Therefor
297k16 k. Persons Liable. Most Cited Cases
Attorneys could no longer be charged as principals to the perjury of their client for aiding, abetting, and counseling the

client to make false statements under oath in a discovery deposition in a personal injury case once the client recanted his perjurious statements, where the perjury had no effect on the underlying personal injury case. West's F.S.A. § 837.07(1).

[2] Statutes 361 ⚿199

361 Statutes
361VI Construction and Operation
361VI(A) General Rules of Construction
361k187 Meaning of Language
361k199 k. Particular Words and Phrases. Most Cited Cases
The term "any," when used in a statute is all-inclusive and unambiguous.

[3] Perjury 297 ⚿15

297 Perjury
297I Offenses and Responsibility Therefor
297k15 k. Defenses. Most Cited Cases
Statute providing that recantation is a defense to "any prosecution for perjury" includes prosecutions for perjury by way of the "principals" statute, treating those who aid, abet, or counsel another to commit a crime the same as if they had committed the crime themselves. West's F.S.A. § § 777.011, 837.07.

[4] Perjury 297 ⚿15

297 Perjury
297I Offenses and Responsibility Therefor
297k15 k. Defenses. Most Cited Cases

The statutory defense of recantation to offense of perjury operates when either the false statement has not substantially affected the proceeding or when such admission is made before it has become manifest that such false statement has been or will be exposed. West's F.S.A. § 837.07.

[5] Perjury 297 ⚿15

297 Perjury
297I Offenses and Responsibility Therefor
297k15 k. Defenses. Most Cited Cases
Statute providing that recantation is a defense to perjury allows the defense even where the underlying proceeding has been substantially affected, as long as the admission as to falsity came before exposure or threat of exposure of the perjury. West's F.S.A. § 837.07.

[6] Perjury 297 ⚿1

297 Perjury
297I Offenses and Responsibility Therefor
297k1 k. Nature and Elements of Offenses in General. Most Cited Cases
The crime of perjury is not complete when the false statement is made.

[7] Criminal Law 110 ⚿1028

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1028 k. Presentation of Questions in General. Most Cited Cases

By failing to disclose its theory of prosecution at time the trial court considered defendants' motion to dismiss charges of perjury against them, state did not preserve for appellate review issue of whether defendants could still be convicted of solicitation of perjury as a lesser included offense of perjury as a principal. West's F.S.A. § § 777.04(2), 837.02(1), 924.051(1)(b), (3).

[8] Criminal Law 110 ⚿1038.2

110 Criminal Law
110XXIV Review
110XXIV(E) Presentation and Reservation in Lower Court of Grounds of Review
110XXIV(E)1 In General
110k1038 Instructions
110k1038.2 k. Failure to Instruct in General.
Most Cited Cases
In a non-capital case, the failure to instruct the jury of even a necessarily lesser included offense is not fundamental error.

***250** Richard E. Doran, Attorney General, Tallahassee, and Richard L. Polin, Senior Assistant Attorney General, Miami, for appellant.
H. Dohn Williams, Jr., and Irene Porter of Hicks, Anderson & Kneale, P.A., Miami, for appellees.

GROSS, J.
The issue in this case is whether criminal defendants charged as principals in the perjury of another are entitled to the benefits of the defense contained at section 837.07, Florida Statutes (Supp.1990), when the actual perjurer recants his testimony. We hold that the statutory defense applies to such defendants and affirm the order of dismissal entered by the circuit court.

Appellees Mark Marks and Carl Borgan were attorneys accused of multiple counts of perjury. The state charged appellees as principals to the perjury of their client, Howard Drinks. As to all counts, the state alleged that Marks and Borgan "aided, abetted, and counseled" their client to make false statements under oath in a discovery deposition in a personal injury case. At a later deposition in the same personal injury case, Drinks recanted the perjurious statements. The perjury had no effect on the underlying personal injury case.

***251** [1] Marks and Borgan filed motions to dismiss pursuant to Florida Rule of Criminal Procedure 3.190(c)(4). The state's traverse disputed the motion's legal conclusion that the recantation inured to appellees' benefit. The trial court granted the motions to dismiss, concluding that because there was no offense of perjury due to the recantation, the appellees could not be charged with aiding and abetting a nonexistent offense. The state appeals.

The defendants were charged with violating section 837.02(1), Florida Statutes (1989). That statute stated: "Whoever makes a false statement, which he does not believe to be true, under oath in an official proceeding in regard to any material matter shall be guilty of a felony of the third degree...." The state charged Marks and Borgan as principals under section 777.011, Florida Statutes (1989). That statute treats those who aid, abet, or counsel another to commit a crime the same as if they had committed the crime themselves.

Whoever commits any criminal offense against the state, whether felony or misdemeanor, or aids, abets, counsels, hires, or otherwise procures such offense to be committed, and such offense is committed or is attempted to be committed, is a principal in the first degree and may be

charged, convicted, and punished as such, whether he is or is not actually or constructively present at the commission of such offense.

Id.; see also Potts v. State, 430 So.2d 900, 902 (Fla.1982).

[2][3] In 1990, the legislature passed section 837.07, which provided for recantation as a defense to perjury:

Recantation shall be a defense to *any* prosecution for perjury or false statement only if *the person making the false statement* admits such statement to be false in the same continuous proceeding or matter, and:

(1) The false statement has not substantially affected the proceeding; or

(2) Such admission is made before it has become manifest that such false statement has been or will be exposed.

(Emphasis added). Section 837.07 makes the defense applicable to "any" prosecution for perjury. The rule of lenity requires this statute to be construed "most favorably to the accused." § 775.021, Fla. Stat. (1989). The term "any," when used in a statute is "all-inclusive" and unambiguous. *See* Clark v. State, 790 So.2d 1030, 1032 (Fla.2001) (stating that "the term 'any defendant' in the Act is 'all-inclusive [and] require[es] no statutory interpretation.' ") (quoting Young v. State, 719 So.2d 1010, 1011 (Fla. 4th DCA 1998) (citing Auto Owners Ins. Co. v. Conquest, 658 So.2d 928, 929 (Fla.1995))). Under these rules of construction, "any prosecution for perjury" includes prosecutions for perjury by way of the "principals" statute, section 777.011. Therefore, Drinks's recantation precludes the perjury charges in this case.

This interpretation of section 837.07 is consistent with the application of the defense prior to the enactment of the statute. Florida's common law held that recantation was a defense to perjury, even when it became "manifest that such falsity [had] been or [would] be exposed." *Carter v. State*, 384 So.2d 1255, 1257 (Fla.1980); *see also Brannen v. State*, 94 Fla. 656, 114 So. 429, 431 (1927). *Carter* was a case where the defendant chiropractor was a plaintiff's witness in a personal injury case. The day after his deposition, he wrote the defense attorney a letter correcting his deposition testimony. The state charged the chiropractor with perjury, based on his deposition testimony. The supreme court held that the recantation in the letter was a defense to perjury, even though the recantation came after the prospect that the ***252** false testimony would be revealed by the defense attorney. The supreme court wrote:

Dr. Carter corrected the facts he had related in his deposition promptly and voluntarily. He gained nothing from the false statement made. No one was prejudiced by his false statement and the proceedings were not affected thereby. His subsequent testimony was consistent with the recanted version. Under these circumstances, the fear of being caught should not vitiate the defense of recantation.

Carter, 384 So.2d at 1257-58 (footnote omitted).

[4][5] If anything, section 837.07 is an expansion of the common law defense. The statutory defense operates when *either* "[t]he false statement has not substantially affected the proceeding" *or* when "[s]uch admission is made before it has become manifest that such false statement has been or will be exposed." § 837.07(1), (2). *Carter* appears to have required that the underlying proceedings not be affected for the defense to be operative. Section 837.07 allows the recantation defense even where the underlying proceeding

has been "substantially affected," as long as the admission came before exposure or threat of exposure of the perjury.

[6] The effect of a valid recantation under section 837.07 is the same as that under the common law defense. *Carter* expressly adopted Judge Cross's dissenting opinion in *State v. Carter*, 364 So.2d 1249, 1250 (Fla. 4th DCA 1978), which indicated that when a recantation is effective, "then the offense of perjury has not been committed." *Carter*, 384 So.2d at 1258. Florida has rejected the view that the crime of perjury is complete when the false statement is made. *See United States v. Norris*, 300 U.S. 564, 574-75, 57 S.Ct. 535, 81 L.Ed. 808 (1937) (citing *Brannen*).

[7][8] We also reject the state's argument that the trial court's dismissal of the perjury charges was erroneous because the defendants could still have been convicted of solicitation of perjury as a lesser included offense of the crimes charged. The information did not charge solicitation under section 777.04(2), Florida Statutes (1989). The issue of whether solicitation was a lesser included offense in this case was not preserved for appeal; the prosecutor did not raise the argument in the circuit court. *See* § 924.051(1)(b), (3), Fla. Stat. (2002). There is no fundamental error. In a non-capital case, the failure to instruct the jury of even a necessarily lesser included offense is not fundamental error. *Jones v. State*, 484 So.2d 577, 579 (Fla.1986). A different result cannot apply here. If the state sought a conviction under the solicitation statute, the state had the obligation to disclose that theory of prosecution at the time the trial court was considering the motion to dismiss in order to preserve the issue for appeal.

AFFIRMED.

STONE, J., and STERN, KENNETH D., Associate Judge, concur.

Fla.App. 4 Dist.,2002.

State v. Mark Marks, P.A.

833 So.2d 249, 28 Fla. L. Weekly D108

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APPENDIX U

Plaintiffs' Statement Supplementing Trial Transcript/Proceedings of 21-24, October, 2002, Dated March 20, 2003.

IN THE THIRTEENTH JUDICIAL CIRCUIT COURT, IN AND FOR HILLSBOROUGH COUNTY, FLORIDA CIVIL DIVISION

Ruth D. Bundy, and another;
Plaintiffs,

v. CASE No. 98-8569 Div I
COLGI, INC., and others: [On Appeal 2ND DCA Case # 2D02-5449]

Defendants.
_____/

PLAINTIFFS' STATEMENT SUPPLEMENTING TRIAL TRANSCRIPT/PROCEEDINGS OF 21-24 OCTOBER , 2002

COME NOW Plaintiffs Ruth D. Bundy and Ralph Charles Whitley, Sr., jointly in proper person, pursuant to **Orders by the 2ND DCA dated February 26, 2003 and March 18, 2003** as well as reliance on Fla.R.App.P. 9.200(b)(4) [2002] seeking to supplement via statement the trial transcript or proceedings of Monday the 21ST day of October, through and including Thursday the 24TH day of October 2002 and in support submit:

1. **The statement provided relative to instant comments by Judge Herbert J. Baumann, Jr. is not reflected in the Trial Transcript or Official Records of the events of Monday the 21sT day of October, 2002 as received from Berryhill and**

Associates after certification from Beth A. Malone, Official Court Reporter.

2. **Defendants will be served with this document and may serve objections or proposed amendments to same within 10 days of service to the Circuit Court under the Rules.**

3. **After objections or proposed amendments to it are served back to Plaintiffs it is anticipated that a response or reply may be allowable before any action is taken or Order issued pursuant to Rule 9.200(b)(4) Fla.R.App.P. [2003] allowing inclusion by the Clerk of Court, Thirteenth Judicial Circuit in the Record On Appeal..**

4. **Once settled and approved, the statement shall be included by the clerk of the lower tribunal in the record pursuant to the Rule and Plaintiffs will agree automatically to pay any fees and costs relative to having the RECORD contents additions numbered in the Index of Record plus Appendix insertion in the Amended Brief of Plaintiffs.**

5. **Plaintiffs submit the Court still has the power to Order supplemental statements, depositions or investigation "SUA SPONTE" and further has a duty to see that the RECORD is complete regardless of fault of any litigant, officer of the court or the court itself as even depositions read into the record REDACTED were not transcribed and the transcript is INCOMPLETE and believed such failure to provide a transcript at no fault of Plaintiffs DEMANDS A NEW TRIAL as all are reportedly `Equal Under The Law' and inability to provide a transcript when transcription was done**

is a GROUND FOR NEW TRIAL AUTOMATICALLY afforded Criminal trial parties, especially defendants.

6. **The STATEMENT OF PLAINTIFFS is as follows:**

"BEGINNING OF STATEMENT"

A. **"On Monday the 21ST day of October, 2002 at approximately 8:30 a.m.** Plaintiffs, Defendants, Defense Counsel John W. Day, Assistant Clerk Terry Turner, Court Reporter Beth Malone and possibly Bailiff/Deputy Sheriff Ken Jones **were present in the Court Room , Third Floor Main Courthouse, 419 Pierce Street, Tampa, Hillsborough County, Florida** awaiting Judge Herbert J. Baumann, Jr. to commence an anticipated two week trial in Case 98-8569 Division I.

B. **Judge Herbert J. Baumann, Jr. Entered the court, all rose, judge indicated for all to be seated then took a seat himself and stated something similar to: "We may have a problem here in this case. I have been informed my wife may be a potential witness in this case. Even though I consider any involvement as `de minimis' the matter should be discussed and I can leave while this is discussed and you can have the bailiff get me when you have reached a decision"**

C. **WE remember Attorney Day stating something to the effect that "I do not believe it will be necessary to have you leave**

the court room while this matter is discussed".

D. WE remember Plaintiff Whitley asking the Court: "Who is your spouse and where is her name shown in anything?"

E. WE remember the judge stating: "Shelly P. Baumann is my wife and she is listed on a document from Dr. Bruce Welch, M.D. and although her involvement would be considered de minimis I would have to recuse myself if she were to be called as a witness or become available to be called as a witness if someone mentioned her name and that they relied upon anything she did in this case."

F. WE remember that Attorney Day indicated he did not believe he was going to require the judges spouse to come in to testify and did not believe Plaintiffs were going to do so at this point so the matter should not raise any issues requiring recusal at this time.

(1) Shelly P. Baumann along with many other medical doctors who `allegedly submitted supporting "treating physician" documentation' never were called as witnesses by defense counsel and Plaintiffs were totally surprised by the revelation that Dr. Welch RELIEF UPON DOCUMENTS confirming his diagnosis and had no time to obtain

or demand rights to have emergency subpoena's issued to compel attendance by the wife of the jurist or anyone else mentioned.

G. WE remember that Plaintiffs, non attorneys and certainly not familiar with the judges role, had no desire to even mention the NAME OF THE JURISTS SPOUSE to trigger a mistrial and did not know what the spouse would have testified to or what records may be involved since WE had no medical records from Attorney Day, Dr. Welch or Dr. Baumann indicating Shelly P. Baumann, M.D. would be necessary as a candidate for deposition or trial witness in this case now or after commencement.

(1) Plaintiff Bundy did not ever remember talking with or visiting the office of most of the physicians who were named and especially Dr. Baumann who NEVER treated the Plaintiff.

H. WE remember the judge, immediately after stating his wife was a potential witness left for a moment only to return back to the court room and instruct the Bailiff/Deputy to bring in the jury pool and this is when the Court Reporter started taking some of the testimony for transcription purposes.

I. **WE do not remember ever granting anyone permission or hearing the Judge grant permission NOT TO RECORD OR TRANSCRIBE the proceedings from the 21ST day of October, 2002 through the 24TH day of October, 2002 and certainly believed that any transcription would be total and verbatim without question plus certified under sworn oath by the Court Reporter as available as a true and complete transcript for any Appeal purposes.**

(1) **WE have an incomplete OFFICIAL TRANSCRIPT because of error of the Court and Court Reporter for which there is no relief available without review of the TAPE RECORDINGS made every hour in the trial.**

(2) **WE submit omissions of entire statements and full transcript or deposition wording is inexcusable and demands a NEW TRIAL immediately in this case.**

J. **WE paid several thousands of dollars for a full and complete transcript of the entire Trial and noticed immediately ALL statements indicated in this STATEMENT, and other crucial sections important for appeal purposes were missing for reasons unknown and highly questionable.**

K. **WE remember never giving any instruction or permission to the Court Reporter or Judge to NOT TRANSCRIBE THE TRIAL VERBATIM and would not have consented to any continuation of the judge in the case KNOWING that his spouse would be presented as ONE WHO TREATED then filed written documentation confirming any PREVIOUSLY UNKNOWN DIAGNOSIS of Plaintiff Ruth D. Bundy.**

L. **WE remember that at no time did the presiding jurist Herbert J. Baumann, Jr. ever disclose to the JURY that Shelly P. Baumann was his wife as one juror already had the judge confirm another Baumann individual was not related.**

M. **Plaintiffs submit review of the entire transcript provided by Berryhill & Associates indicates failure to properly transcribe specific sections of the four day trial which involve the following sections of Transcript indicated by the designation "T" then a dash and number for a specific line where it is submitted were NOT CAUSED BY PLAINTIFFS who have a right to appeal to the SECOND DISTRICT COURT OF APPEAL this entire action under "ALL PERSONS EQUAL UNDER THE LAW' based upon a complete record and transcript which obviously was not forthcoming due to ERROR and deprives Plaintiffs of a true, correct, proper RECORD which cannot possibly be**

corrected as to what the JURY ACTUALLY USED AND HEARD nor clarified or corrected properly except in documents filed as an Appendix Exhibit that show what transcripts would have been read when in fact many were redacted and not all sections were read to the jury thus it is clear information is missing in these sections of the transcript:

"T-28 line 11, T-71 line 11-17, T-78 line 16, T-120 line 1 thru 4, T-125 line 3 & 4, T-156 line 25, T-157 line 1 thru 3, T-163 line 9, T-192 line 7 thru 9, T-231 line 8, T-240 line 22 thru 24, T-259 line 1, T-275 line 5 thru 7, T-287 line 16 thru 18, T-283 line 23 thru 25, T-290 line 21 thru 23, T-299 line 7 thru 9, T-300 line 22, T-301 line 23 thru 25, T-565 Line 9.

END OF STATEMENT

7. **ERROR, if any lies with the jurists failure to follow known guidelines contained in : Rules of Judicial Conduct Canon 3(e) & (f); Fla.R.Jud.Admin 2.160 plus any known or unknown law, Rules, Statutes, Laws and the Court Reporter's failures to follow: Fla.R.Jud.Admin 2.070(b)(c) & (f) Rules 13.120 (h) & (l) & (m); 1.130(f) Regulation Of Court Reporters (2002).**

A. Plaintiffs remain unsure how to attack `error and failures' which are perceived worthy of a NEW TRIAL in this case involving the COURT REPORTER failure to properly transcribe the proceedings.

8. Judge Baumann heard a juror ask about a person named Baumann and replied but NEVER ONCE indicated to the Jury or placed into the RECORD anything about statements concerning his spouse and the reliance upon "treating physician" evidence and writings used to CONFIRM the findings of Dr. Bruce Welch, M.D. the ONLY star witness for Defense who to this very date has not provided MANDATORY RECORDS of a `patient' under Florida Laws and Rules [Fla.R.Civ.P 1.360(a)(1)(B) and 1.360(a)(1(3) plus 1.360(b)(1) have still not been complied with under cloak of `attorney work product"Dr. Welch belief Ruth D. Bundy was not a PATIENT under the laws of Florida].

9. The jurist, Dr. Welch and Attorney Day are fully aware of the NON RECEIPT of the entire medical records of `patient by law' Ruth D. Bundy and since the record itself is PROOF POSITIVE OF PERJURY have still refused to release the information and the lower court has done nothing to aid for appeal purposes the receipt of this damaging evidence relative to "Malingering" "Guilding the Lilly" and "No Damage" which Dr. Welch relied upon in his final diagnosis citing Shelly P. Baumann as one of the doctors he specifically relied upon for confirmation of the diagnosis.

A. **Attorney Day has all of the files of Dr. Bruce Welch's MENTAL EXAMINATION which should have been stricken from the record as no Order was forthcoming which is MANDATORY in the Rules for anything but a physical exam.**

B. **Plaintiff Bundy has repeatedly [on four (4) times] requested copies of all medical findings and reports plus documentation in the form of drawings and circles on evaluation forms of over 400 questions which were and are still being concealed and denied even for the purposes of this appeal.**

(1) **Plaintiff Bundy requested copies BEFORE TRIAL during the first psychiatric examination conducted by Dr. Welch and never received anything.**

(2) **Plaintiff Bundy requested copies BEFORE TRIAL during the second psychiatric examination conducted by Dr. Welch and never received anything.**

(3) **Plaintiff Bundy requested copies AFTER TRIAL in person at the main lobby of 535 Central Avenue and never received anything.**

(4) Plaintiff Bundy requested copies AFTER TRIAL in writing via certified mail sent to Dr. Welch at 535 Central Avenue and never received the files but received a letter indicating they were `attorney work product' held by Attorney John W. Day.

(5) Both John W. Day and Dr. Bruce Welch were advised the medical records COMPLETE AND TOTAL were necessary for Appeal of this case to the Second District Court of Appeal and nothing has been forthcoming except a promise in writing from Attorney Day that if the COURT THINKS THEY ARE NECESSARY TO BE REVEALED TO PLAINTIFF/APPELLANT BUNDY then they shall be forwarded.

(6) For unknown reasons the lower tribunal and this very COURT OF APPEAL have not indicated to Attorney John W. Day to provide the records which allegedly indicate clear and convincing proof positive of PERJURY by Dr. Welch in this case against Plaintiff/Appellant Bundy.

C. The lower tribunal, Judge Herbert J. Baumann, Jr. was fully advised and knew that he had not issued any ORDER FOR

MENTAL EXAMINATION of Plaintiff Ruth D. Bundy prior to trial and to this very date has not allowed deposition of Dr. Welch nor commanded via Order PRODUCTION IMMEDIATELY OF ALL MEDICAL RECORDS of the two MENTAL EXAMINATIONS conducted by Dr. Bruce Welch.

10. **Plaintiffs submit the above STATEMENT provided in ¶ 6 above and await any comments from Defendants in this matter.**

11. **Plaintiffs submit again the undeniable fact that crucial EVIDENCE in the form of Medical Records of Ruth D. Bundy concerning ONLY two MENTAL EXAMINATIONS have not been provided NOR ORDERED by any Court for reasons unclear from Defense Counsel Day and Dr. Bruce Welch, M.D. and are necessary for APPEAL IN THIS CASE .**

WHEREFORE Plaintiffs pray this Court will allow Fla.R.App.P. 9200(b)(4) protective statement to be answered by objections or proposed amendments then allow a response before any ORDER IS ISSUED allowing settlement and approval including filings with the Clerk for inclusion with the RECORD ON APPEAL before FINAL ADJUDICATION OR FINAL ORDER on the Appeal is reached in this instant case by the Second District Court Of Appeal Of Florida..

CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and correct copy of the foregoing shall be delivered in a timely manner via FAX/EMAIL and/or U.S. Mail to the following: Clerk of Court, Second District Court of Appeal, 1005 E. Memorial Boulevard, Lakeland, Florida 33801-0327 Judge Herbert J. Baumann, Jr., 419 Pierce St., Room 380-CH, Tampa, Florida 33602; John W. Day. Attorney, 535 Central Avenue, St. Petersburg, FL 33701; Randall O. Reder, Attorney, 1319 W. Fletcher Avenue, Tampa, FL 33612-3310; Sheriff Cal Henderson, 2008 East 8TH Avenue, Tampa, Florida 33605; Florida Department of Law Enforcement, Tampa Bay Regional Operations Center, 4211 North Lois Avenue, Tampa, Florida 33614

Under penalties of perjury, I declare that I have read the foregoing Motion and that the facts stated in it are true, signed this 20TH day of March, 2003 at 1:53 P.M..

/SS/
Ruth D. Bundy
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/SS/
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